

ILLINOIS POLLUTION CONTROL BOARD
February 3, 2005

IN THE MATTER OF:)
)
STANDARDS FOR UNIVERSAL) R05-8
WASTE MANAGEMENT) (Rulemaking - Land)
(35 ILL. ADM. CODE PARTS 703,)
720, 721, 725, 728, AND 733)

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by J.P. Novak, G.T. Girard):

On November 4, 2004, the Board sent to first notice under the Illinois Administrative Procedure Act (APA) (5 ILCS 100/1-1 *et seq.* (2002)) a proposal which amends the Board's rules governing the standards for universal waste. The amended regulations appear in the Board's rules at 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733. Today, the Board sends this matter to second notice under the APA.

BACKGROUND

On October 19, 2004, the Environmental Protection Agency (Agency) filed a proposal under 35 Ill. Adm. Code 102.200 and 102.202 to amend 35 Ill. Adm. Code 703, 730, 721, 724, 725, 728, and 733. The proposal by the Agency came in response to Public Act 93-0964, which the governor signed on August 20, 2004. Public Act 93-964 (P.A. 93-964, eff. Aug. 20, 2004) added three new sections to the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)). New Section 22.23b designated specified items containing mercury as "universal waste subject to the streamlined hazardous waste rules set forth in Title 35 of the Illinois Administrative Code, Subtitle G, Chapter I, Subchapter c, Part 733." 415 ILCS 5/22.23b(e) (2004). The same subsection required that the Illinois Environmental Protection Agency (Agency) propose rules reflecting that designation and prescribing procedures and standards for managing that waste within 60 days of the August 20, 2004 effective date of Public Act 93-964. *Id.* From the date of that proposal, the Board has 180 days to adopt such rules. *Id.*

On November 4, 2004, the Board accepted the Agency's proposal and, because of the strict statutory deadline for adoption, sent the rule to first notice without commenting on its substantive merits. In doing so, the Board made non-substantive grammatical, typographical, and mechanical changes conforming the language of the proposal to the code. The Board also added Board Notes stating that certain provisions are not federally-derived identical-in-substance rules. Finally, the Board removed certain sections of Part 703 from the proposal because the Agency had not proposed to amend those sections.

Section 27(b) of the Act (415 ILCS 5/27(b) (2002)) requires the Board to request from the Department of Commerce and Community Affairs, now the Department of Commerce and Economic Opportunity (DCEO) an economic impact study (EcIS) on specified proposed rules

before their adoption. If DCEO opts to conduct the EcIS, DCEO has 30 to 45 days from the date of that request to produce a study of the proposed rules' impact. The Board then must make the EcIS or DCEO's reason for not conducting such a study available to the public at least 20 days before a public hearing on the economic impact of the proposed rules. As required by section 27(b), the Board in a letter from Chairman J. Philip Novak dated October 28, 2004 requested that DCEO conduct an EcIS of this proposal. DCEO stated in response that, after reviewing the proposed amendments and in light of the state's continued fiscal constraints, it opted not to perform an EcIS.

The Board held two hearings on this proposal, the first in Chicago on December 15, 2004, before Hearing Office Marie Tipsord and the second in Springfield on January 6, 2005, before Hearing Officer John Knittle. At the first hearing, Kyle Rominger and Mark Crites, an environmental protection engineer, testified for the Agency. Kevin Greene also answered questions on its behalf. At the second hearing, Kyle Rominger again testified for the Agency. The second hearing was also held in order to fulfill the requirements of Section 27(b) of the Act. Although Hearing Officer Knittle at the second hearing specifically sought testimony on DCEO's decision not to conduct an EcIS, he noted that no person had appeared wishing to comment on that issue.

Although the public comment period continued to January 20, 2005, the Board did not receive any public comment regarding this rulemaking proposal.

DISCUSSION

The Board, after two public hearings and a period of public comment, finds that there is no need to make substantive changes to the Agency's original proposal. The Board further finds that the proposal is economically reasonable and technically feasible.

SUMMARY OF PROPOSAL FOR SECOND NOTICE

The following discussion will briefly summarize the second notice proposal on a section-by-section basis.

Part 703: RCRA Permit Program

Section 703.123: Specific Exceptions from Permit Program

Existing Section 703.123 exempts specific categories of persons from the requirement of obtaining a permit under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6901 *et seq.*). 35 Ill. Adm. Code 703.123 (h). Existing subsection 703.123(h) exempts universal waste handlers or transporters who manage specified wastes including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 703.123(h). The same subsection provides that those exempt handlers and transporters are regulated by Part 733. *Id.*; *see* 35 Ill. Adm. Code 733.101 *et seq.* (Standards for Universal Waste Management).

The proposed amendment adds “mercury-containing equipment” as a new category of exempt universal waste. *See* proposed 35 Ill. Adm. Code 703.123(h)(5). The proposal also adds a Board Note describing the statutory authority for the rulemaking proceeding. *Id.* (citing authorities including P.A. 93-0964).

Part 720: Hazardous Waste Management System

Section 720.110: Definitions

Existing Section 720.110 provides definitions applicable to Parts 720 through 726, 728, 733, and 739 only. 35 Ill. Adm. Code 720.110. The proposed amendment defines “mercury-containing equipment” as “mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.” *See* proposed 35 Ill. Adm. Code 720.110. The proposal defines “mercury relay” as

a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays.” 415 ILCS 5/3.283 (2004); *see* proposed 35 Ill. Adm. Code 720.110.

The proposal also defines “mercury switch” as

a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.” 415 ILCS 5/3.284 (2004); *see* proposed 35 Ill. Adm. Code 720.110.

The proposal also adds three Board Notes describing the statutory authority for adding these definitions. *Id.* (citing authorities including P.A. 93-0964).

Part 721: Identification and Listing of Hazardous Waste

Section 721.109: Requirements for Universal Waste

Existing Section 721.109 lists categories of waste, including batteries, pesticides, thermostats, and lamps, regulated under universal waste rules. 35 Ill. Adm. Code 721.109; *see* 35 Ill. Adm. Code 733 (Standards for Universal Waste Management). The proposal adds “mercury-containing equipment” as one of those categories. *See* proposed 35 Ill. Adm. Code 721.109(e). The proposal also adds a Board Note describing the statutory authority for adding mercury-containing equipment as a type of waste regulated under the universal waste rules. *Id.* (citing authorities including P.A. 93-0964).

Part 724: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Section 724.101: Purpose, Scope, and Applicability

Current subsection 724.101(g)(11) provides exemptions from the requirements of the hazardous waste regulations of Part 724 for universal waste handlers and transporters. 35 Ill. Adm. Code 724.101 *et seq.* (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities). One exemption applies to categories of universal waste including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 724.101(g)(11). The current subsection further provides that those handlers and transporters are subject to regulation under Part 733 when handling those categories. *Id.*; *see* 35 Ill. Adm. Code 733.101 *et seq.* (Standards for Universal Waste Management).

The proposal adds “mercury-containing equipment” as an additional exempt category. *See* proposed 35 Ill. Adm. Code 724.101(g)(11)(E). The proposal also adds a Board Note describing the statutory authority for adding this exemption. *Id.* (citing authorities including P.A. 93-0964).

Part 725: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Section 725.101: Purpose, Scope, and Applicability

Current subsection 725.101(c)(14) provides exemptions from the requirements of the hazardous waste regulations of Part 725 for universal waste handlers and transporters handling categories of universal waste including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 725.101(c)(14). The current subsection further provides that those handlers and transporters are subject to regulation under Part 733 when handling those categories. *Id.*; *see* 35 Ill. Adm. Code 733.101 *et seq.* (Standards for Universal Waste Management).

The proposal adds “mercury-containing equipment” as an additional exempt category of universal waste. *See* proposed 35 Ill. Adm. Code 725.101(c)(14)(E). The proposal also adds a Board Note describing the statutory authority for adding this exemption. *Id.* (citing authorities including P.A. 93-0964).

Part 728: Land Disposal Restrictions

Section 728.101: Purpose, Scope, and Applicability

Current subsection 728.101(f) provides exemptions from Section 728.107 (35 Ill. Adm. Code 728.107 (Testing, Tracking, and Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities)) and Section 728.150 (35 Ill. Adm. Code 728.150 (Prohibitions on Storage of Restricted Wastes)) for hazardous wastes including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 728.101(f). The current subsection further provides that handlers and transporters of those wastes are subject to regulation under Part 733 when handling those

categories. *Id.*; *see* 35 Ill. Adm. Code 733.101 *et seq.* (Standards for Universal Waste Management).

The proposal adds “mercury-containing equipment” as an additional exempt category. *See* proposed 35. Ill. Adm. Code 728.101(f)(5). The proposal also adds a Board Note describing the statutory authority for adding this exemption. *Id.* (citing authorities including P.A. 93-0964).

Part 733: Standards for Universal Waste Management

Subpart A: General

Section 733.101: Scope

Current subsection 733.101(a) specifies the categories of waste, including batteries, pesticides, thermostats, and lamps, for which Part 733 sets management standards. 35 Ill. Adm. Code 733.101(a).

The proposal adds “mercury-containing equipment” as one of these categories. *See* 35 Ill. Adm. Code 733.101(a)(5). The proposal also adds a Board Note describing the statutory authority for adding this category. *Id.* (citing authorities including P.A. 93-0964).

Section 733.106: Applicability

The proposal adds a new Section 733.106 applying universal waste management standards to specified mercury-containing equipment. *See* proposed 35. Ill. Adm. Code 733.106(a). New subsection 733.106(b) provides that persons handling specified mercury-containing equipment are not subject to those standards. *See* proposed 35 Ill. Adm. Code 733.106(b). Finally, subsection 733.106(c) describes when used mercury-containing equipment becomes a waste. *See* proposed 35 Ill. Adm. Code 733.106(c). The proposal also adds a Board Note describing the statutory authority for adding this category. *Id.* (citing authorities including P.A. 93-0964).

Section 733.109: Definitions

Current Section 733.109 provides definition of terms relating to the rules governing universal waste management. 35 Ill. Adm. Code 733.109. The proposal both amends existing definitions and adds definitions of new terms. *See id.*

First, the proposal amends the current definition of the term “large quantity handler of universal waste” to include “mercury-containing equipment” in a list of items constituting universal waste. 35 Ill. Adm. Code 733.109. The proposal also adds to this definition a Board Note describing the statutory authority for amending this definition. *Id.* (citing authorities including P.A. 93-0964).

Second, the proposal adds a new definition of the term “mercury-containing equipment:” “mercury switches and mercury relays, and scientific instruments and instructional equipment

containing mercury added during their manufacture.” *Id.*; *see also* proposed 35 Ill. Adm. Code 720.110. The proposal also adds a Board Note describing the statutory authority for adding this definition. *See* proposed 35 Ill. Adm. Code 733.109. (citing authorities including P.A. 93-0964).

Third, the proposal adds a new definition of the term “mercury relay.” 415 ILCS 5/3.283 (2004); *see* proposed 35 Ill. Adm. Code 733.109. The proposal also adds a Board Note describing the statutory authority for adding this definition. *Id.* (citing authorities including P.A. 93-0964).

Fourth, the proposal adds a new definition of the term “mercury switch.” 415 ILCS 5/3.284 (2004); *see* proposed 35 Ill. Adm. Code 733.109. The proposal also adds a Board Note describing the statutory authority for adding this definition. *Id.* (citing authorities including P.A. 93-0964).

Fifth, the proposal amends the current definition of the term “small quantity handler of universal waste” to include “mercury-containing equipment” in a list of items constituting universal waste. *Id.* The proposal also adds to this definition a Board Note describing the statutory authority for amending this definition. *Id.* (citing authorities including P.A. 93-0964).

Sixth, the proposal amends the current definition of the term “universal waste” to include within it “mercury-containing equipment, as described in Section 733.106.” *See* proposed 35 Ill. Adm. Code 733.109. The proposal also adds to this definition a Board Note describing the statutory authority for amending this definition. *Id.* (citing authorities including P.A. 93-0964).

Subpart B: Standards for Small Quantity Generators

Section 733.113: Waste Management

Current Section 733.113 provides standards for the management of various categories of universal waste, including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 733.113 (Standards for Small Quantity Handlers). Current subsection 733.113(c) provides standards pertaining to thermostats. 35 Ill. Adm. Code 733.113(c). The proposal adds mercury-containing equipment to subsection 733.113(c), making management standards for thermostats applicable also to mercury-containing equipment. *See* proposed 35 Ill. Adm. Code 733.113. The proposal also adds to an existing Board Note language describing the statutory authority for this amendment. *Id.* (citing authorities including P.A. 93-0964).

Section 733.114: Labeling and Marking

Current Section 733.114 provides that small quantity handlers of universal waste must follow requirements to identify categories of universal waste including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 733.114. The proposal adds a new subsection 733.114(f) specifying labeling and marking requirements pertaining specifically to mercury-containing waste. *See* proposed 35 Ill. Adm. Code 733.114(f). The proposal also adds to subsection 733.114(f) a Board Note describing the statutory authority for adding this language. *Id.* (citing authorities including P.A. 93-0964).

Subpart C: Standards for Large Quantity Generators

Section 733.132: Notification

Current Section 733.132 applies a requirement of written notification to the Agency on specified large quantity handlers of universal waste. 35 Ill. Adm. Code 733.132. Subsection 733.132(b) describes information that must be contained in that notification. 35 Ill. Adm. Code 733.132(b). The proposal in subsections 733.132(b)(4) and (b)(5) adds “mercury-containing equipment” to the existing categories of universal waste that must be listed by handlers in the required notifications. *See* proposed 35 Ill. Adm. Code 733.132(b)(4), (b)(5). The proposal also adds a Board Note describing the statutory authority for adding this language. *Id.* (citing authorities including P.A. 93-0964).

Section 733.133: Waste Management

Current Section 733.133 contains requirements for the management of categories of universal waste including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 733.133. Current subsection 733.133(c) provides requirements applying specifically to thermostats. 35 Ill. Adm. Code 733.133(c). The proposal adds “mercury-containing equipment” to this existing subsection, making the management standards for thermostats applicable also to mercury-containing equipment. *See* proposed 35 Ill. Adm. Code 733.133(c). The proposal also adds to an existing Board Note language describing the statutory authority for adding this language. *Id.* (citing authorities including P.A. 93-0964).

Section 733.134: Labeling and Marking

Current Section 733.134 establishes requirements that large quantity handlers of universal waste must follow in identifying categories of universal waste, including batteries, pesticides, thermostats, and lamps. 35 Ill. Adm. Code 733.134. The proposal adds a new subsection 733.134(f) containing labeling and marking requirements specifically applicable to mercury-containing equipment. *See* proposed 35 Ill. Adm. Code 733.134(f). The proposal also adds a Board Note describing the statutory authority for adding this language. *Id.* (citing authorities including P.A. 93-0964).

CONCLUSION

The Board will proceed to second notice with proposed rules amending the Board’s regulations at 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733 regarding standards for management of universal waste. The Board has held a hearing on the economic impact of the proposal, and the Board finds that the proposal is economically reasonable and technically feasible. Therefore, the Board will adopt the proposal for second notice.

ORDER

The Board directs the Clerk to cause the filing of the following rule with the Joint Committee on Administrative Rules.

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

PART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

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703.100	Scope and Relation to Other Parts
703.101	Purpose
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703.122	Specific Inclusions in Permit Program
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703.127	Federal Permits (Repealed)

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703.154	Prohibitions During Interim Status
703.155	Changes During Interim Status
703.156	Interim Status Standards
703.157	Grounds for Termination of Interim Status
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703.186	Exposure Information
703.187	Solid Waste Management Units
703.188	Other Information
703.191	Public Participation: Pre-Application Public Notice and Meeting
703.192	Public Participation: Public Notice of Application
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703.204	Waste Piles
703.205	Incinerators that Burn Hazardous Waste
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703.222	Incinerator Conditions Prior to Trial Burn
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703.230	Land Treatment Demonstration
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SUBPART F: PERMIT CONDITIONS OR DENIAL

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703.244	Notice of Planned Changes (Repealed)
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Section	
703.320	Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

703.APPENDIX A Classification of Permit Modifications

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4 and 22.23b 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 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. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

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

- a) Generators that accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;
- b) Farmers that dispose of hazardous waste pesticides from their own use as provided in 35 Ill. Adm. Code 722.170;
- c) Persons that own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);
- d) 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 who adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person who 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)(4) of this Section. 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) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~;
 - 5) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (h)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (2002).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 720
 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section	
720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender

SUBPART B: DEFINITIONS 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
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

720.APPENDIX A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 13, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 13, 22.4, 22.23b and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-

1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726, 728, 733, and 739 only, the following terms have the meanings given below:

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

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

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

“Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator’s designee.

“Agency” means the Illinois Environmental Protection Agency.

“Ancillary equipment” means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or

control the flow of hazardous waste from its point of generation to storage or treatment 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 responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

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

“Board” means the Illinois Pollution Control Board.

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

Boiler 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 (such as water walls 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 (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

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

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit 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 regeneration unit” means any enclosed thermal treatment device used to regenerate spent activated carbon.

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

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

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

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

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

“Containment building” means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of 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 tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer

who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

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

Of which any of the following is true:

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

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (2002);

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (2002); or

The facility is regulated under 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; and

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

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

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

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

“Dioxins and furans” or “D/F” means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins 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 such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

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

“Elementary neutralization unit” means a device of which the following is true:

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 which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

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

“EPA hazardous waste number” or “USEPA 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.

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

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

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

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

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

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

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

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

Region VII: Nebraska, Kansas, Missouri, and Iowa

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

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

Region X: Washington, Oregon, Idaho, and Alaska

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

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

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

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

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

“Existing tank system” or “existing component” means a tank system or component that is used for the storage or treatment of hazardous waste and which 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 physical construction of the site or installation of the tank system and if either of the following is true:

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

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

“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. Such 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 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 the completion of 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. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

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

Notwithstanding 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 such a 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.

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

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

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

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

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

“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.

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

“Incinerator” means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility:

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

The facility is not listed as an industrial furnace; or

The facility 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 725 for examples.)

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

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

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

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

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

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 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

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

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

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

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

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

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

Other relevant factors.

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

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

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

“In operation” refers to a facility 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.

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

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

“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, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

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

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

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

“LDS” means leak detection system.

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

“Liner” means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell 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. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

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

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

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

“Mercury-containing equipment” means mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.

BOARD NOTE: The definition of “mercury-containing equipment” was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

“Mercury relay” means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]

BOARD NOTE: The definition of “mercury relay” was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).

“Mercury switch” means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

BOARD NOTE: The definition of “mercury switch” was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).

“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 USC 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 reclamation of 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.

“New hazardous waste management 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, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also “existing tank system.”)

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

“On-site” means the same or geographically contiguous property 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. Noncontiguous 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 the combustion of any material without the following characteristics:

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

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

Control of emission of the gaseous combustion products.

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

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

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

“Partial closure” means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility 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.

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

“Personnel” or “facility personnel” means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

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

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

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

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

BOARD NOTE: The second exception of corresponding 40 CFR 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 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the

same meaning as its federal counterpart while adding the definiteness required under Illinois law.

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

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

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

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

“Qualified groundwater scientist” means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, 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 USC 6901 et seq.).

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

“Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that 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 located in such a facility.

“Replacement unit” means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

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

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

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

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

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

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

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

“Small quantity generator” means a generator that generates less than 1000 kg of hazardous waste in a calendar month.

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

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

“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 the requirements of 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 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 which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

“Tank” means a stationary device, designed to contain an accumulation of hazardous waste, that is constructed primarily of nonearthen 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 such a temperature control device in compliance with the requirements of 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

“Totally enclosed treatment facility” means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which 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.

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

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

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

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

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

“Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of

any hazardous waste so as to neutralize 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, where the depth of the dug well is greater than the largest surface dimension. (See also “injection well.”)

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

“Unfit-for-use tank system” means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

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

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

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

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

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

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

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.

BOARD NOTE: Mercury-containing equipment was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

“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 universal waste; or

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

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

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

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

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

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

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

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

“Wastewater treatment unit” means a device of which the following is true:

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

It 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

It meets the definition of tank or tank system in this Section.

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

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

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

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

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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721.110	Criteria for Identifying the Characteristics of Hazardous Waste
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AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4, and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702 703, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The following wastes are subject to regulation under 35 Ill. Adm. Code 733:

- a) Batteries, as described in 35 Ill. Adm. Code 733.102;
- b) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- c) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
- d) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~;
- e) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (e) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 724
 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
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AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4 and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23b and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.

17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.
- b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
- c) The requirements of this Part apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the federal Marine Protection, Research and Sanctuaries Act (16 USC 1431-1434, 33 USC 1401) only to the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)] and 35 Ill. Adm. Code 703.121.

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

- d) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)] only to the extent they are required by Subpart F of 35 Ill. Adm. Code 704.

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

- e) The requirements of this Part apply to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.
- f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.
- g) The requirements of this Part do not apply to the following:
 - 1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act [415 ILCS 5/21] to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.
 - 2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739).
 - 3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.
 - 4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.
 - 5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.
 - 6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T to 35 Ill. Adm. Code 728) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).

- 7) This subsection (g)(7) corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.
- 8) Immediate response.
 - A) Except as provided in subsection (g)(8)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged; or
 - iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.
 - B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.
 - C) Any person that is covered by subsection (g)(8)(A) of this Section and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.
 - D) In the case of an explosives or munitions emergency response, if a federal, State, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the

response, the responsible persons responding, the type and description of material addressed, and its disposition.

- 9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.
- 10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.
- 11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:
 - A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - C) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - D) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~;
 - E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (g)(11)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).
- h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.
- i) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 726, and 728.
- j) The requirements of Subparts B, C, and D of this Part and Section 724.201 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes

that are not remediation wastes. In these cases, Subparts B, C, and D of this Part, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of Subparts B, C, and D of this Part, owners or operators of remediation waste management sites must comply with the following requirements:

- 1) The owner or operator must obtain a USEPA identification number by applying to USEPA using USEPA Form 8700-12;
- 2) The owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information that must be known to treat, store, or dispose of the waste according to this Part and 35 Ill. Adm. Code 728, and the owner or operator must keep the analysis accurate and up to date;
- 3) The owner or operator must prevent people who are unaware of the danger from entering the site, and the owner or operator must minimize the possibility for unauthorized people or livestock entering onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate the following to the Agency:
 - A) That physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock that may enter the active portion of the remediation waste management site; and
 - B) That disturbance of the waste or equipment by people or livestock that enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Part;
- 4) The owner or operator must inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and the owner or operator must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner or operator must immediately take remedial action;
- 5) The owner or operator must provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of this Part, and on how to respond effectively to emergencies;

- 6) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and the owner or operator must prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;
- 7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X of this Part, the owner or operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the requirements of Section 724.118(b);
- 8) The owner or operator must not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;
- 9) The owner or operator must develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with Sections 724.321(c) and (d), 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste management site, according to the requirements of Section 724.119;
- 10) The owner or operator must develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents occurs that could threaten human health or the environment;
- 11) The owner or operator must designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate 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 waste 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;

- 12) The owner or operator must develop, maintain, and implement a plan to meet the requirements in subsections (j)(2) through (j)(6) and (j)(9) through (j)(10) of this Section; and
- 13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12) of this Section.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 725
 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF
 HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL
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 725.APPENDIX F Compounds With Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4, and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.23b, 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. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28,

1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope, and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are fulfilled.
- b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste that have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure care responsibilities under this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by Section 3010(a) of RCRA or that have failed to file Part A of the Permit Application, as required by 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
 BOARD NOTE: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.
- c) The requirements of this Part do not apply to:
 - 1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 USC 1431-1434; 33 USC 1401);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b) of this Section.

- 2) This subsection corresponds with 40 CFR 265.1(c)(2), marked “reserved” by USEPA. This statement maintains structural consistency with USEPA rules;
- 3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste;
BOARD NOTE: The owner or operator of a facility under subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code 702 and 703 or are required by 35 Ill. Adm. Code 704.Subpart F.
- 4) This subsection corresponds with 40 CFR 265.1(c)(4), which pertains exclusively to the applicability of the federal regulations in authorized states. There is no need for a parallel provision in the Illinois regulations. This statement maintains structural consistency with USEPA rules;
- 5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105;
- 6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739;
- 7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;
- 8) A farmer disposing of waste pesticides from the farmer’s own use in compliance with 35 Ill. Adm. Code 722.170;
- 9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- 10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste in order to remove the characteristic before land

disposal, the owner or operator shall comply with the requirements set out in Section 725.117(b);

- 11) Immediate response:
 - A) Except as provided in subsection (c)(11)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of a hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged; or
 - iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.
 - B) An owner or operator of a facility otherwise regulated by this Part shall comply with all applicable requirements of Subparts C and D of this Part.
 - C) Any person that is covered by subsection (c)(11)(A) of this Section that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;
 - D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the

response, the responsible persons responding, the type and description of material addressed, and its disposition;

- 12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
 - 13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;
 - 14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:
 - A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - C) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - D) Lamps, as described in 35 Ill. Adm. Code 733.105; ~~and~~;
 - E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (c)(14)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).
- d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027 unless:
- 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
 - 2) The waste is stored in tanks or containers;
 - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of Subpart L of this Part;

- 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
 - 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.
- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
 - f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 726, and 728.
 - g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 728
 LAND DISPOSAL RESTRICTIONS

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AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4, and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23b, and 27].

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26

Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope, and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- c) Restricted wastes may continue to be land disposed as follows:
 - 1) Where a person has been granted an extension to the effective date of a prohibition under Subpart C of this Part or pursuant to Section 728.105, with respect to those wastes covered by the extension;
 - 2) Where a person has been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;
 - 3) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the following is true of the waste:
 - A) The waste is disposed into a nonhazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a); and
 - B) The waste does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.
 - 4) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the waste meets any of the following criteria, unless the waste is subject to a specified method of treatment other than DEACT in Section 728.140 or is D003 reactive cyanide:
 - A) Any of the following is true of either treatment or management of the waste:

- i) The waste is managed in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued under 35 Ill. Adm. Code 309;
 - ii) The waste is treated for purposes of the pretreatment requirements of 35 Ill. Adm. Code 307 and 310; or
 - iii) The waste is managed in a zero discharge system engaged in Clean Water Act (CWA)-equivalent treatment, as defined in Section 728.137(a); and
 - B) The waste no longer exhibits a prohibited characteristic of hazardous waste at the point of land disposal (i.e., placement in a surface impoundment).
- d) This Part does not affect the availability of a waiver under Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).
- e) The following hazardous wastes are not subject to any provision of this Part:
- 1) Waste generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;
 - 2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;
 - 3) Waste identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated a land disposal prohibition or treatment standard;
 - 4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory waste that does not exceed one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million (ppm) in the

headworks of the facility's wastewater treatment or pretreatment facility;
or

- 5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.
- f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
- 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - 3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105; and;
 - 5) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.
BOARD NOTE: Subsection (f)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).
- g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code 729. The Environmental Protection Agency (Agency) must not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

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

PART 733

STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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733.181	Factors for Petitions to Include Other Wastes

AUTHORITY: Implementing Sections 3.283, 3.284, 7.2, 22.4, 22.23a, and 22.23b and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/3.283, 3.284, 7.2, 22.4, 22.23a, 22.23b, and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-8 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101	Scope
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- a) This Part establishes requirements for managing the following:
 - 1) Batteries, as described in Section 733.102;
 - 2) Pesticides, as described in Section 733.103;
 - 3) Thermostats, as described in Section 733.104;~~and~~
 - 4) Lamps, as described in Section 733.105; and.

5) Mercury-containing equipment, as described in Section 733.106.
BOARD NOTE: Subsection (a)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 733.106 Applicability--Mercury-Containing Equipment Definitions (Renumbered)

- a) Mercury-containing equipment covered under this Part. The requirements of this Part apply to persons managing mercury-containing equipment as described in Section 733.109, except those listed in subsection (b) of this Section.
- b) Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing equipment:
- 1) Mercury-containing equipment that is not yet a waste under 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when mercury-containing equipment becomes a waste.
 - 2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.
- c) Generation of waste mercury-containing equipment.
- 1) Used mercury-containing equipment becomes a waste on the day it is discarded.
 - 2) Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.

BOARD NOTE: This Section 733.106 was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 733.109 Definitions

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

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

“FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y).

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

“Lamp” or “universal waste lamp” is defined as 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 infra-red regions of the electromagnetic spectrum. Common examples of universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

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

BOARD NOTE: Mercury-containing equipment was added to this definition of “large quantity handler of universal waste” pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

“Mercury-containing equipment” means mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.

BOARD NOTE: The definition of “mercury-containing equipment” was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

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

“Mercury relay” means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]

BOARD NOTE: The definition of “mercury relay” was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).

“Mercury switch” means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

BOARD NOTE: The definition of “mercury switch” was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).

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

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

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in 35 Ill. Adm. Code 720.111;

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA Section 360b(j), incorporated by reference in 35 Ill. Adm. Code 720.111, to be an exempted new animal drug; or

It is an animal feed under FFDCA Section 201(w) (21 USC 321(w)), incorporated by reference in 35 Ill. Adm. Code 720.111, that bears or contains any substances described in either of the two preceding paragraphs of this definition.

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

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

BOARD NOTE: Mercury-containing equipment was added to this definition of “small quantity handler of universal waste” pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

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

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

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103;

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

Lamps, as described in Section 733.105; and-

Mercury-containing equipment, as described in Section 733.106.

BOARD NOTE: Mercury-containing equipment was added to this definition of “universal waste” pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

“Universal waste handler” means either of the following:

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

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

Universal waste handler does not mean:

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

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

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

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

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

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

Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

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

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

- b) Universal waste pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);
 - 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste thermostats and mercury-containing equipment. A small quantity handler of universal waste shall manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat or

mercury-containing equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

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

equipment shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

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

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

- d) Lamps. A small quantity handler of universal waste shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the small quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must

be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

- 3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
 - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
 - C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
 - D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
 - F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural

defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 733.114 Labeling and Marking

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

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

designated by the waste pesticide collection program administered or recognized by a state; and

- 2) The words “Universal Waste - Pesticides” or “Waste - Pesticides”;
- d) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste - Mercury Thermostats”, or “Waste Mercury Thermostats”, or “Used Mercury Thermostats”; and
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: “Universal Waste - Lamps”, “Waste Lamps” or “Used Lamps”.
- f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste - Mercury-Containing Equipment,” or “Waste Mercury-Containing Equipment,” or “Used Mercury-Containing Equipment.”
BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.132 Notification

- a) Written notification of universal waste management.
 - 1) Except as provided in subsections (a)(2) and (a)(3) of this Section, a large quantity handler of universal waste shall have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
 - 2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify under this Section.
 - 3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by 40 CFR 165,

is not required to notify for those recalled universal waste pesticides under this Section.

- b) This notification must include:
- 1) The universal waste handler's name and mailing address;
 - 2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
 - 3) The address or physical location of the universal waste management activities;
 - 4) A list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment); and
 - 5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment) the handler is accumulating above this quantity.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination.

BOARD NOTE: Mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 733.133 Waste Management

- a) Universal waste batteries. A large quantity handler of universal waste shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that

could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.

- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.
 - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
 - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

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

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

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

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and is subject to 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

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

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

- 1) A large quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- 2) A large quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the large quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

- 3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
- A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
 - C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
 - D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
 - F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and

22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 733.134 Labeling and Marking

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

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

following phrases: “Universal Waste-Mercury Thermostats”, or “Waste Mercury Thermostats”, or “Used Mercury Thermostats”; and

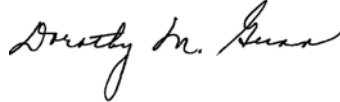
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: “Universal Waste - Lamps”, “Waste Lamps” or “Used Lamps”.
- f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: “Universal Waste - Mercury-Containing Equipment,” or “Waste Mercury - Containing Equipment,” or “Used Mercury-Containing Equipment.”

BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 3, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board