

ILLINOIS POLLUTION CONTROL BOARD  
February 2, 2006

IN THE MATTER OF:	)	
	)	
UIC CORRECTIONS, USEPA	)	R06-5
AMENDMENTS January 1, 2005 through	)	(Identical-in-Substance
June 30, 2005)	)	Rulemaking - Land)
RCRA SUBTITLE D UPDATE, USEPA	)	R06-6
AMENDMENTS (January 1, 2005 through	)	(Identical-in-Substance
June 30, 2005 and August 1, 2005)	)	Rulemaking - Land)
RCRA SUBTITLE C UPDATE, USEPA	)	R06-7
AMENDMENTS (January 1, 2005 through	)	(Identical-in-Substance
June 30, 2005 and August 1, 2005)	)	Rulemaking - Land)
	)	(Consolidated)

Adopted Rule. Final Order.

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by G.T. Girard):

**SUMMARY OF TODAY'S ACTION**

On January 5, 2005, the Board adopted final identical-in-substance rules in three consolidated dockets. Today, the Board adopts minor, non-substantive corrections to those rules. These corrections are prompted by questions submitted to the Board by the Joint Committee on Administrative Rules (JCAR).

This rulemaking updates the Illinois underground injection control, municipal solid waste landfill, and hazardous waste regulations to incorporate revisions to the federal regulations. The United States Environmental Protection Agency (USEPA) adopted the federal amendments that prompted this action during the period of January 1, 2005 through June 30, 2005. The opinion of January 5, 2006, explains the federal actions and corresponding Board amendments to the Illinois regulations in detail. The accompanying Board order of January 5, 2006, sets forth the full text of the rules. Today's supplemental opinion and order is restricted to consideration of the JCAR questions and the segments of the rules text revised in response to those questions.

The Board will file the adopted rules as corrected on or before February 24, 2006, to assure timely completion of the amendments.

**DISCUSSION**

The Board received a set of questions on the rules from JCAR. The Board docketed the questions as public comment number two (PC 2) on January 11, 2006. That comment is described as follows:

PC 2 January 11, 2006, e-mail from Deborah Connelly.

PC 2 has prompted revision of the rules adopted on January 5, 2006. The tables that appear in this supplemental opinion and order indicate the JCAR questions and the Board responses. Table 1 indicates the revisions prompted by PC 2. Table 2 briefly responds to the small number of JCAR questions that did not prompt revisions.

**Table 1:**  
**Revisions to the Text of the Adopted Amendments Prompted by JCAR**  
**Questions**

Section Revised	Revision(s) Prompted by JCAR Questions
703.205(b)	Changed “Section 703.222 et seq.” to “Section 703.222 through 703.224”
703.205(c)(1)(C)	Changed “appropriate analytical techniques” to “appropriate analytical methods”
703.205(c)(1) Board note	Added explanation of “appropriate analytical methods”
703.205(a)(2)(B)(ii)	Changed “appropriate analytical techniques” to “appropriate analytical methods”
703.208(a)(2)(B)(ii) Board note	Added explanation of “appropriate analytical methods”
703.223(b)(1)(C)	Changed “appropriate analytical techniques” to “appropriate analytical methods”
703.223(b)(1) Board note	Added explanation of “appropriate analytical methods”
703.232(c)(2)(A)	Changed “appropriate analytical techniques” to “appropriate analytical methods”
703.232(c)(2) Board note	Added explanation of “appropriate analytical methods”
703.Appendix A, ¶ G.1	Added text “Modification of a tank . . . specified as follows:
720.111(a)	Changed “ASTM Method G 21-70” to ASTM G 21-70”
720.111(a)	Changed “ASTM Method G 22-76” to ASTM G 22-76”
720.111(a) “NTIS” “Methods for . . . Wastes” Board note	Corrected “EPA-600/4-79-002” to “EPA-600/4-79-020”
720.111(a) “OECD”	Changed “C(92)39(Final)” to “C(92)39/Final” (six times; changed “C(88)90(Final)” to “C(88)90/Final”; changed “C(94)152/FINAL” to “C(94)152/Final”; changed “C(94)152(Final)” to “C(94)152/Final”
720.111(b) “appendix to 40 CFR 262”	Corrected “8700-22a” to “8700-22A”
720.111(b) “49 CFR 172.304”	Corrected “Hazardous Materials . . . Requirements” to “Marking Requirements”

721.132(d)(4)	Changed “on-site” to “on site”
721.Appendix A “extremely viscous liquid”	Changed “ASTM Standard D140-70” to “ASTM D 140-70”
721.Appendix A “crushed or powdered material”	Changed “ASTM Standard D346-75” to “ASTM D 346-75”
721.Appendix A “soil or rock-like material”	Changed “ASTM Standard D420-69” to “ASTM D 420-69”
721.Appendix A “soil- like material”	Changed “ASTM Standard D1452-65” to “ASTM D 1452-65”
721.Appendix A “ash- like material”	Changed “ASTM Standard D2234-76” to “ASTM D 2234-76”
722.120(a)(1)	Corrected “8700-22a” to “8700-22A”
722.120(a)(2)(B)	Removed the unnecessary “(2004)”
722.121(b)(6)(G)	Corrected “8700-22a” to “8700-22A”
722.181 “amber-list controls”	Changed “C(92)39/FINAL” to “C(92)39/Final”
722.181 “amber-list waste”	Changed “Appendix 4” to lower-case “appendix 4”; changed “C(92)39/FINAL” to “C(92)39/Final”
722.181 “green-list controls”	Changed “C(92)39/FINAL” to “C(92)39/Final”
722.181 “green-list waste”	Changed “Appendix 3” to lower-case “appendix 3”; changed “C(92)39/FINAL” to “C(92)39/Final”
722.181 “recovery operations”	Changed “Table 2.B” to lower-case “table 2.B”; changed “C(88)90/(Final)” to “C(88)39/Final”
722.181 “red-list controls”	Changed “C(92)39/FINAL” to “C(92)39/Final”
722.181 “red-list waste”	Changed “Appendix 5” to lower-case “appendix 5”; changed “C(92)39/FINAL” to “C(92)39/Final”
722.187(a)(4)	Changed “C(88)90/FINAL” to lower-case “C(88)90/Final”; changed “C(94)152/FINAL” to “C(94)152/Final”
724.986(c)(4)(A)	Reversed the amendment of “8700-22A” to “8700-22a”
724.986(d)(4)(A)	Reversed the amendment of “8700-22A” to “8700-22a”
724.987(c)(4)(A)	Reversed the amendment of “8700-22A” to “8700-22a”
724.987(d)(4)(A)	Reversed the amendment of “8700-22A” to “8700-22a”
724.Appendix I “chlorobenzilate”	Corrected the spelling of “ethylf” to “ethyl”
726.200(i) “toxicity equivalence”	Removed the unnecessary “federal” from before “appendix IX to 40 CFR 266”
726.202(b)(1)	Changed “appropriate analytical procedures” to “appropriate analytical methods”
726.202(b)(1) Board note	Added explanation of “appropriate analytical methods”

726.204(e)(3)	Removed the unnecessary “federal” from before “appendix W to 40 CFR 51”
726.204(h)	Changed “720.111” to “720.111(b)”
726.206(a)	Changed “appropriate analytical procedures” to “appropriate analytical methods”
726.206(a) Board note	Added explanation of “appropriate analytical methods”
726.212(b)(2)(A)	Changed “appropriate analytical procedures” to “appropriate analytical methods”
726.212(b)(2)(A) Board note	Added explanation of “appropriate analytical methods”
726.310 “eligible . . . radioactive material”	Changed “EMA” to “IEMA”
726.310 “eligible . . . radioactive material” Board note	Changed “Illinois EMA” to “IEMA”
726.310 “IEMA”	Changed “EMA” to “IEMA”; added “Illinois” before “Emergency Management Agency”
726.310 “IEMA” Board note	Changed “Illinois EMA” to “IEMA” (twice)
726.310 “license”	Changed “Illinois EMA” to “IEMA” (twice)
726.310 “low-level radioactive waste” Board note	Changed “EMA” to “IEMA”
726.310 “mixed waste” Board note	Changed “EMA” to “IEMA”
726.325	Changed “Illinois EMA” to “IEMA”
726.330(a)	Changed “Illinois EMA” to “IEMA” (twice)
726.335	Changed “Illinois EMA” to “IEMA”
726.350(a)	Changed “Illinois EMA” to “IEMA”
726.350(b)	Changed “Illinois EMA” to “IEMA” (twice)
726.355(a)	Changed “Illinois EMA” to “IEMA”
726.355(b)	Changed “Illinois EMA” to “IEMA”
726.415(b)	Changed “Illinois EMA” to “IEMA” (twice)
726.425	Changed “Illinois EMA” to “IEMA” (three times)
726.430(c)	Changed “Illinois EMA” to “IEMA” (twice); changed “against” to capitalized “Against”
726.430(d)	Changed “Illinois EMA” to “IEMA”
726.435	Changed “Illinois EMA” to “IEMA”
726.445(a)	Changed “Illinois EMA” to “IEMA”
726.450 preamble	Changed “Illinois EMA” to “IEMA”
726.450(e)	Changed “Illinois EMA” to “IEMA” (twice)
726.460(a)	Changed “Illinois EMA” to “IEMA”
728.Table T “D014”	Changed “Methoxychlor” to lower-case “methoxychlor”
728.Table T “D015”	Changed “Toxaphene” to lower-case “toxaphene”

738.122(a)(4)	Removed the overstriking from “this” and the underlined text “the following” to reverse the change from “the following statement” to “this statement”
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**Table 2:**  
**JCAR Questions that Did Not Prompt Revisions to the Text of the Rules with**  
**Accompanying Responses**

Section Affected	JCAR Question	Explanation
721.103(e)(2)(C)(iii)	Why add “federal” before “40 CFR 268” (and in other, similar provisions)?	It is added for enhanced clarity and emphasis in a handful of provisions.
721.105(g)(3)(C)	Why delete the date reference “(2002)”?	There is no need to restrict the granted USEPA authorization to a C.F.R. provision in the 2002 edition.
723.120(a)(1)(A)	Why change “shall not” to “may not”?	The Board avoids the use of “shall,” which can be used in other than a mandatory sense. The usage “may not” has no non-mandatory sense.
724.245(c)(3)(B)(ii)	Should “724.251” be “724.151”?	No. The Board has codified 40 C.F.R. 264.151 as 35 Ill. Adm. Code 724.251.
726.212(b)(1)	Should “toxic constituents” appear as “Hazardous Constituents” to reflect the title of Appendix H to 35 Ill. Adm. Code 721?	No. USEPA uses “toxic constituents,” and it is apparent that the title of corresponding federal appendix VIII to 40 C.F.R. 261 is not intended.

The segments of the adopted rules affected by these revisions are set forth below. The overall length of the complete text would amount to nearly 270 pages. Having already presented the entire text of the adopted rules in the order of January 5, 2006, the Board presents below only the revised segments of the text as they will be filed with the Office of the Secretary of State. The revised segments of the rules are as follows:

Section 703.205      Incinerators that Burn Hazardous Waste

For a facility that incinerates hazardous waste, except as 35 Ill. Adm. Code 724.440 and subsection (e) of this Section provide otherwise, the applicant must fulfill the requirements of subsection (a), (b), or (c) of this Section in completing the Part B application.

\* \* \*

- b)      Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222-~~et seq~~ through 703.224.
- c)      In lieu of a trial burn, the applicant may submit the following information:

- 1) An analysis of each waste or mixture of wastes to be burned including the following:

\* \* \*

- C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques specified in “Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,” USEPA Publication SW 846, as incorporated by reference at 35 Ill. Adm. Code 720.111, or their equivalent methods;

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- E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

## Section 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63, ~~subpart EEE~~ (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63, ~~subpart EEE~~), the requirements of this Section do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.310(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188 and 703.241(a)(2).

- a) Trial burns.

\* \* \*

- 2) Waiver of trial burn of DRE (destruction removal efficiency).

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- B) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a), which waive the DRE trial burn, the owner or operator must submit the following:

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- ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical techniques specified in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ methods.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but

USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

#### Section 703.223 Incinerator Conditions During Trial Burn

For the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 724.443 and of determining adequate operating conditions under 35 Ill. Adm. Code 724.445, the Agency must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

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- b) The trial burn plan must include the following information:
- 1) An analysis of each waste or mixture of wastes to be burned that includes the following:

\* \* \*

- C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721, that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the



basis for their exclusion stated. The waste analysis must rely on appropriate analytical techniques specified in “Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,” USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent methods; and

- D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the appropriate analytical methods specified in “Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,” USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent;

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

## Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63, subpart EEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63, subpart EEE), the requirements of this Section do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm.

Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.310(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188 and 703.241(a)(2).

\* \* \*

- c) Requirements for trial burn plans. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection (c).

\* \* \*

- 2) An analysis of each hazardous waste, as fired, including the following:
- A) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with appropriate analytical techniques specified in “Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,” USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent methods;

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- C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method,

which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

Section 703.Appendix A      Classification of Permit Modifications

Class    Modifications

\* \* \*

G.      Tanks

1. Modification of a tank unit, secondary containment system, or treatment process that increases tank capacity, adds a new tank, or alters treatment, specified as follows:

\* \* \*

Section 720.111      References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 703 through 705, 721 through 726, 728, 730, 733, 738, and 739:

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

\* \* \*

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

\* \* \*

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

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

\* \* \*

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

\* \* \*

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

BOARD NOTE: EPA-600/4-79-020 is also available on the Internet as a viewable/printable HTML document from the USEPA website at: [www.epa.gov/clariton/clhtml/pubtitleORD.html](http://www.epa.gov/clariton/clhtml/pubtitleORD.html) as document 600479002.

\* \* \*

OECD. Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France ([www.oecd.org](http://www.oecd.org)), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 ([www.oecdwash.org](http://www.oecdwash.org)):

OECD “Amber List of Wastes,” Appendix 4 to the OECD Council Decision ~~C(92)39/FINAL~~ C(92)39/Final (March 30, 1992, revised May 1993) (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations), “Decision of the Council Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations.” USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD “Amber Tier,” Section IV of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Annex to OECD Council Decision C(88)90/Final, as amended by C(94)152/Final (revised July 1994), referenced in 35 Ill. Adm.

Code 722.187.

OECD “Green List of Wastes,” Appendix 3 to the OECD Council Decision ~~C(92)39/FINAL~~ C(92)39/Final (March 30, 1992, revised May 1994) (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations)), “Decision of the Council Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations.” USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD “Green Tier,” Section III of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

\* \* \*

OECD “Red List of Wastes,” Appendix 5 to the OECD Council Decision ~~C(92)39/FINAL~~ C(92)39/Final (March 30, 1992, revised revised May 1993), “Decision of the Council Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations.” USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD “Red Tier,” Section V of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Table 2.B of the Annex of OECD Council Decision C(88)90(Final) (May 27, 1988), amended by ~~C(94)152(Final)~~ C(94)152/Final (July 28, 1994), “Decision of the Council on Transfrontier Movements of Hazardous Wastes,” referenced in 35 Ill. Adm. Code 722.181 and 722.187.

\* \* \*

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

\* \* \*

Appendix to 40 CFR 262 (2005) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)).

and as amended at 70 Fed. Reg. 10776 (March 4, 2005), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

\* \* \*

49 CFR 172.304 (2004) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

\* \* \*

Section 721.132      Hazardous Waste from Specific Sources

\* \* \*

d) Procedures for demonstrating that dyes or pigments nonwastewaters are not K181 waste. The procedures described in subsections (d)(1) through (d)(3) and (d)(5) of this Section establish when nonwastewaters from the production of dyes or pigments would not be hazardous. (These procedures apply to wastes that are not disposed of in landfill units or treated in combustion units, as specified in subsection (a) of this Section). If the nonwastewaters are disposed of in landfill units or treated in combustion units as described in subsection (a) of this Section, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 waste listing description, the generator must maintain documentation as described in subsection (d)(4) of this Section.

\* \* \*

4) Recordkeeping for the landfill disposal and combustion exemptions. For the purposes of meeting the landfill disposal and combustion condition set out in the K181 waste listing description in subsection (a) of this Section, the generator must maintain on site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or which meets the landfill design standards set out in the listing description or that the waste was treated in combustion units, as specified in the listing description in subsection (a) of this Section.

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Section 721.Appendix A      Representative Sampling Methods

The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed below, for sampling waste with properties similar to the indicated materials, are considered by USEPA to be representative of the waste.

Extremely viscous liquid: ~~ASTM Standard D140-70~~ D 140-70, (Standard Practice for Sampling Bituminous Materials), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(a).

Crushed or powdered material: ~~ASTM Standard D346-75~~ D 346-75, (Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(a).

Soil or rock-like material: ~~ASTM Standard D420-69~~ D 420-69, (Guide to Site Characterization for Engineering, Design, and Construction Purposes), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(a).

~~Soil-like~~ Soil-like material: ~~ASTM Standard D1452-65~~ D 1452-65, (Standard Practice for Soil Investigation and Sampling by Auger Borings), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(a).

~~Fly Ash-like~~ ash-like material: ~~ASTM Standard D2234-76~~ D2234-76, (Standard Practice for Collection of a Gross Sample of Coal), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(a).

\* \* \*

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 722.120      General Requirements

##### a)      Manifest use.

- 1) \_\_\_\_\_ A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or, effective September 5, 2006, a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest before transporting the waste off site on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

\* \* \*

#### Section 722.121      Acquisition of Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests

\* \* \*

- b) \_\_\_\_\_ The following requirements apply effective September 5, 2006:

\* \* \*

4) Submission of document samples.

\* \* \*

G) The instructions in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must appear legibly on the back of the copies of the manifest and continuation sheet as provided in 40 CFR 262.21(f), as described in this subsection (b)(6) and subsection (b)(14) of this Section. The instructions must not be visible through the front of the copies when photocopied or faxed.

\* \* \*

## Section 722.181 Definitions

The following definitions apply to this Subpart H:

“Amber-list controls” means the controls listed in ~~Section section~~ IV of the Annex-annex to the OECD Council Decision-~~C(92)39/FINAL~~ C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

“Amber-list waste” means a waste listed in the OECD “Amber List of Wastes,” ~~Appendix appendix~~ 4 to the OECD Council Decision-~~C(92)39/FINAL~~ C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

\* \* \*

“Green-list controls” means the controls listed in ~~Section section~~ III of the Annex-annex to the OECD Council Decision-~~C(92)39/FINAL~~ C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

“Green-list waste” means a waste listed in the OECD “Green List of Wastes,” ~~Appendix appendix~~ 3 to the OECD Council Decision-~~C(92)39/FINAL~~ C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

\* \* \*

“Recovery operations” means activities leading to resource recovery, recycling, reclamation, direct re-use, or alternative uses, as listed in ~~Table table~~ 2.B of the Annex-annex of OECD Council Decision-~~C(88)90(Final)~~ C(88)90/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a), which include the



following activities:

\* \* \*

“Red-list controls” means the controls listed in ~~Section~~section V of the ~~Annex~~annex to the OECD Council Decision ~~C(92)39/FINAL~~, C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

“Red-list waste” means a waste listed in the OECD ~~Green~~“Red List of Wastes,” ~~Appendix~~appendix 5 to the OECD Council Decision ~~C(92)39/FINAL~~, C(92)39/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

\*\*\*

## Section 722.187 Reporting and Recordkeeping

- a) Annual reports. For all waste movements subject to this Subpart H, persons (e.g., notifiers, recognized traders, etc.) that meet the definition of primary exporter in Section 722.151 must file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460 and the Illinois Environmental Protection Agency, Bureau of Land, Division of Land Pollution Control, P.O. Box 19276, Springfield, IL 62794, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subpart H, the person filing may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate Section). Such reports must include the following information:

\* \* \*

- 4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the USEPA hazardous waste number (from Subpart C or D of 35 Ill. Adm. Code 721); the designation of waste types from the OECD waste list and applicable waste code from the OECD lists, as described in the annex to OECD Council Decision C(88)90/FINAL, C(88)90/Final, as amended by C(94)152/Final, incorporated by reference in 35 Ill. Adm. Code 720.111(a), USDOT hazard class; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous waste shipped pursuant to this Subpart H; and number of shipments pursuant to each notification;

\* \* \*

## Section 724.986 Standards: Containers

\* \* \*

## c) Container Level 1 standards.

\* \* \*

## 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices, as follows:

- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container, as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in ~~Appendix A to~~ 35 Ill. Adm. Code ~~722~~ 720.111(b) (USEPA Forms 8700-22 and 8700-22A), as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section.

\* \* \*

## d) Container Level 2 standards.

\* \* \*

## 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices, as follows:

- A) In the case when a hazardous waste already is in the container at

the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 incorporated by reference in the appendix to 40 CFR 262-(Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section.

\* \* \*

Section 724.Appendix I      Groundwater Monitoring List

\* \* \*

<u>Common Name</u>	<u>CAS RN</u>	<u>Chemical Abstracts Service Index Name</u>
--------------------	---------------	--

\* \* \*

<u>Chlorobenzilate</u>	<u>510-15-6</u>	<u>Benzeneacetic acid, 4-chloro-<math>\alpha</math>-(4-chlorophenyl)-<math>\alpha</math>-hydroxy-, ethyl ester</u>
------------------------	-----------------	--

\* \* \*

Section 725.987      Standards: Containers

\* \* \*

c)      Container Level 1 standards.

\* \* \*

4)      The owner or operator of containers using Container Level 1 controls must

inspect the containers and their covers and closure devices as follows:

- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest ~~incorporated by reference in Appendix A to 35 Ill. Adm. Code 722~~, as set forth in the appendix to 40 CFR 262 (USEPA Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section;

\* \* \*

- d) Container Level 2 standards.

\* \* \*

- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted

at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 incorporated by reference in Appendix A to 35 Ill. Adm. Code 722 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section;

\* \* \*

Section 726.200      Applicability

\* \* \*

- i) Abbreviations and definitions. The following definitions and abbreviations are used in this Subpart H:

\* \* \*

“Toxicity equivalence” is estimated, pursuant to Section 726.204(e), using “section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations),” incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I of this Part).

\*\*\*

Section 726.202      Permit Standards for Burners

\* \* \*

- b) Hazardous waste analysis.
- 1) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix H of 35 Ill. Adm. Code 721 that is reasonably expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical procedures prescribed by Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (incorporated by reference, see 35 Ill. Adm. Code 720.111) methods. Alternative methods that meet or exceed the method performance capabilities of SW-846 methods may be used. If SW-846 does not prescribe a method for a particular

~~determination, the owner or operator must use the best available method.~~  
 The constituents listed in Appendix H of 35 Ill. Adm. Code 721 ~~constituents~~  
~~that are excluded from this analysis must be identified and the basis for their~~  
 exclusion explained. This analysis must provide all information required by  
 this Subpart H and 35 Ill. Adm. Code 703.208 and 703.232 and must enable  
 the Agency to prescribe such permit conditions as are necessary to protect  
 human health and the environment. Such analysis must be included as a  
 portion of the Part B permit application, or, for facilities operating under the  
 interim status standards of this Subpart H, as a portion of the trial burn plan  
 that may be submitted before the Part B application under provisions of 35  
 Ill. Adm. Code 703.232(g), as well as any other analysis required by the  
 Agency. ~~Owners and operators~~ The owner or operator of BIFs ~~a BIF~~ not  
 operating under the interim status standards must provide the information  
 required by 35 Ill. Adm. Code 703.208 and 703.232 in the Part B application  
 to the greatest extent possible.

BOARD NOTE: The federal regulations do not themselves define the  
phrase “appropriate analytical methods,” but USEPA did include a  
definition in its preamble discussion accompanying the rule. The Board  
directs attention to the following segment (at 70 Fed. Reg. 34538, 34541  
(June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of  
this Section:

[T]wo primary considerations in selecting an appropriate method,  
which together serve as our general definition of an appropriate  
method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the  
scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify  
other documents that might provide guidance.

\* \* \*

Section 726.204      Standards to Control Organic Emissions

\* \* \*

- e) Controls for dioxins and furans. Owners and operators of BIFs that are equipped with a dry PM control device that operates within the temperature range of 450° through 750° F, and industrial furnaces operating under an alternative HC limit established under subsection (f) of this Section must conduct a site-specific risk assessment as follows to demonstrate that emissions of chlorinated dibenzo-p-

dioxins and dibenzofurans do not result in an increased lifetime cancer risk to the hypothetical maximum exposed individual (MEI) exceeding  $1 \times 10^{-5}$  (1 in 100,000):

\* \* \*

- 3) Conduct dispersion modeling using methods recommended in appendix W to 40 CFR 51, Appendix W, as incorporated by reference at 35 Ill. Adm. Code 720.111 (“Guideline on Air Quality Models (Revised)” (1986) and its supplements), the “in section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure,”) provided in Appendix I in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), or in “Screening Procedures for Estimating Air Quality Impact of Stationary Sources, Revised,” (USEPA publication number EPA-454/R-92-019, each incorporated by reference in 35 Ill. Adm. Code 720.111), to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under subsection (e)(2) of this Section. The maximum annual average on-site concentration must be used when a person resides on-site; and

\* \* \*

- h) Dispersion modeling. Dispersion modeling required under this Section must be conducted according to methods recommended in federal appendix W to 40 CFR 51, appendix W (“Guideline on Air Quality Models (Revised)” (1986) and its supplements), the “in section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure,”) described in Appendix I to this Part in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), or in “Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised,” (USEPA publication number EPA-454/R-92-019, each incorporated by reference in 35 Ill. Adm. Code 720.111(b), to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

#### Section 726.206 Standards to Control Metals Emissions

- a) General. The owner or operator must comply with the metals standards provided by subsections (b), (c), (d), (e), or (f) of this Section for each metal listed in subsection (b) of this Section that is present in the hazardous waste at detectable levels using appropriate analytical procedures specified in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW 846, incorporated by reference in 35 Ill. Adm. Code 720.111 methods.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the

purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

## Section 726.212      Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a BIF is not excluded from the definition of a hazardous waste under 35 Ill. Adm. Code 721.104(b)(4), (b)(7), or (b)(8), unless the device and the owner or operator meet the following requirements:

\* \* \*

- b) The owner or operator demonstrates that the hazardous waste does not significantly affect the residue by demonstrating conformance with either of the following criteria:

\* \* \*

- 2) Comparison of waste-derived residue concentrations with health-based limits.
- A) Nonmetal constituents. The concentration of each nonmetal toxic constituent of concern (specified in subsection (b)(1) of this Section) in the waste-derived residue must not exceed the health-based level specified in Appendix G of this Part, or the level of detection ~~(using analytical procedures prescribed in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA Publication SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111),~~ whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix G of this Part, then a limit of 0.002 mg/kg or the level of detection ~~(using appropriate analytical procedures prescribed in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA Publication SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111 methods),~~ whichever is higher, must be used. The levels specified in Appendix



G of this Part (and the default level of 0.002 mg/kg or the level of detection for constituents, as identified in Note 1 of Appendix G of this Part) are administratively stayed under the condition, for those constituents specified in subsection (b)(1) of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in 35 Ill. Adm. Code 728.143 and Table B to 35 Ill. Adm. Code 728 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of the best good-faith efforts, as defined by applicable USEPA guidance and standards, the owner or operator is deemed to be in compliance for that constituent. Until USEPA develops new guidance or standards, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above (ten times) the level provided by 35 Ill. Adm. Code 728.143 and Table B to 35 Ill. Adm. Code 728 for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans (D/F), analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans;

BOARD NOTE: In a note to corresponding 40 CFR 266.112(b)(2)(i) (~~2002~~), USEPA stated as follows:

The administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in 35 Ill. Adm. Code 728.143 for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations.

Under Section 3006(b) and (g) of RCRA, 42 USC 6926(b) and (g), federal amendments do not go into effect in Illinois until the State of Illinois incorporates them into the State program. This applies unless the authority under which USEPA adopted the amendments is the Hazardous and Solid Waste Amendments of 1984 (HSWA), in which case the federal amendments become effective in Illinois on their federal effective date.

The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The

Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

\* \* \*

#### Section 726.310 Definitions

Terms are defined as follows for the purposes of this Subpart N:

\* \* \*

“Eligible naturally occurring or accelerator-produced radioactive material” means naturally occurring or accelerator-produced radioactive material (NARM) that is eligible for a transportation and disposal conditional exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with federal 10 CFR 61, ~~DNS-IEMA~~ regulations, or the equivalent regulations of a licensing agency in another state.

BOARD NOTE: The ~~Illinois DNS-IEMA~~ regulations are codified at 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

\* \* \*

“IEMA” means the Illinois Emergency Management Agency, the State of Illinois agency charged with regulating source, by-product, and special nuclear material in Illinois in accordance with an agreement between the State and the federal Nuclear Regulatory Commission (NRC) under section 274(b) of the federal Atomic Energy Act of 1954, as amended (42 USC 2021(b)).

BOARD NOTE: In addition to the materials regulated under this Part, IEMA regulates radioactive materials under the Radiation Protection Act of 1990 [420

ILCS 40] that are not licensed by the federal NRC. For the purposes of notices to IEMA required under this Subpart N, the address is as follows:

Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704

\*\*\*

“License” means a license issued by the federal NRC or the ~~Illinois DNS-IEMA~~ IEMA to a user that manages radionuclides regulated by the federal NRC or the ~~Illinois DNS-IEMA~~ IEMA under authority of the Atomic Energy Act of 1954, as amended (42 USC 2014 et seq.) or the Radiation Protection Act of 1990 [420 ILCS 40].

\*\*\*

“Low-level radioactive waste” or “LLRW” is a radioactive waste that contains source, by-product, or special nuclear material and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as defined in section 11(e)(2) of the Atomic Energy Act of 1954 (42 USC 2014(e)(2)), incorporated by reference in 35 Ill. Adm. Code 720.111(b). (See also the NRC definition of waste at federal 10 CFR 61.2.)

BOARD NOTE: This definition differs from the similar definitions of low-level radioactive waste in the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/3(k)], the Central Midwest Interstate Low-Level Radioactive Waste Compact Act [45 ILCS 140/1, Article II(k)], and 32 Ill. Adm. Code 606.20(g) of the ~~DNS-IEMA~~ regulations. Those basically define low-level radioactive waste as radioactive waste that is not ~~(1)~~ high-level radioactive waste, ~~(2)~~ transuranic waste, ~~(3)~~ spent nuclear fuel, or ~~(4)~~ by-product material, as such are defined in section 11 of the federal Atomic Energy Act of 1954 (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

“Mixed waste” means a waste that contains both RCRA hazardous waste and source, by-product, or special nuclear material subject to the Atomic Energy Act of 1954, as amended (42 USC 2014 et seq.).

BOARD NOTE: This definition differs from the similar definitions of mixed waste in the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/3(l)] and 32 Ill. Adm. Code 606.20(h) of the ~~DNS-IEMA~~ regulations. Those basically define mixed waste as containing both RCRA hazardous waste and low-level radioactive waste, as such is defined under Section 3(k) of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/3(k)].

\* \* \*

Section 726.325 Wastes Eligible for a Storage and Treatment Conditional Exemption for Low-Level Mixed Waste

Low-level mixed waste (LLMW), as defined in Section 726.310, is eligible for a storage and treatment conditional exemption if it is generated and managed by a person under a single federal NRC or ~~Illinois DNS-IEMA~~ license. (Mixed waste generated at a facility with a different license number and shipped to a different person's facility for storage or treatment requires a permit, and such mixed waste is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 726.330 Conditions to Qualify for and Maintain a Storage and Treatment Conditional Exemption

- a) For LLMW to qualify for the exemption, the generator must notify the Agency and the ~~Illinois DNS-IEMA~~ in writing by certified delivery that it is claiming a storage and treatment conditional exemption for the LLMW stored on the generator's facility. The dated notification must include the generator's name, address, RCRA identification number, federal NRC or ~~Illinois DNS-IEMA~~ license number, the waste codes and storage units for which the generator is seeking an exemption, and a statement that the generator meets the conditions of this Subpart N. The generator's notification must be signed by the generator's authorized representative who certifies that the information in the notification is true, accurate, and complete. The generator must notify the Agency of its claim either before July 21, 2002, or within 90 days after a storage unit is first used to store conditionally exempt LLMW, whichever is later.

\* \* \*

Section 726.335 Treatment Allowed by a Storage and Treatment Conditional Exemption

The generator may treat its low-level mixed waste at its facility within a tank or container in accordance with the terms of its federal NRC or ~~Illinois DNS-IEMA~~ license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

Section 726.350 Recordkeeping for a Storage and Treatment Conditional Exemption

- a) In addition to those records required by the generator's federal NRC or ~~Illinois DNS-IEMA~~ license, the generator must keep records as follows:
- 1) The generator's initial notification records, return receipts, reports to the Agency of failures to meet the exemption conditions, and all records supporting any reclaim of an exemption;

- 2) Records of the generator's LLMW annual inventories and quarterly inspections;
  - 3) The generator's certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and
  - 4) The generator's emergency plan, as specified in Section 726.330(b).
- b) The generator must maintain records concerning notification, personnel trained, and its emergency plan for as long as the generator claims this exemption and for three years thereafter, or in accordance with federal NRC regulations ~~under~~ (10 CFR 20) or under ~~Illinois DNS-IEMA~~ regulations ~~under~~ (32 Ill. Adm. Code: Chapter II, Subchapter b), whichever is longer. A generator must maintain records concerning its annual inventory and quarterly inspections for three years after the waste is sent for disposal, or in accordance with federal NRC regulations ~~under~~ (10 CFR 20) or under ~~Illinois DNS-IEMA~~ regulations ~~under~~ (32 Ill. Adm. Code: Chapter II, Subchapter b), whichever is longer.

Section 726.355      Waste No Longer Eligible for a Storage and Treatment Conditional Exemption

- a) When a generator's LLMW has met the requirements of its federal NRC or ~~Illinois DNS-IEMA~~ license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date the generator's waste is subject to hazardous waste regulation under the relevant Sections of 35 Ill. Adm. Code 702, 703, 720 through 726, and 728, and the time period for accumulation of a hazardous waste, as specified in 35 Ill. Adm. Code 722.134 begins.
- b) When a generator's conditionally exempt LLMW, which has been generated and stored under a single federal NRC or ~~Illinois DNS-IEMA~~ license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, a generator's waste may be eligible for the transportation and disposal conditional exemption at Section 726.405.

Section 726.415      Conditions to Qualify for and Maintain a Transportation and Disposal Conditional Exemption

A generator must meet the following conditions for its eligible waste to qualify for and maintain the exemption:

\*\*\*

- b) If the generator is not already subject to federal NRC or ~~Illinois DNS-IEMA~~

manifest and transportation regulations for the shipment of its waste, the generator must manifest and transport its waste according to federal NRC or ~~Illinois DNS-IEMA~~ regulations, as described in Section 726.425;

\* \* \*

#### Section 726.425      Applicability of the Manifest and Transportation Condition

If a generator is not already subject to federal NRC or ~~Illinois DNS-IEMA~~ manifest and transportation regulations for the shipment of its waste, the generator must meet the federal NRC manifest requirements under 10 CFR 20.2006 (Transfer for Disposal and Manifests), incorporated by reference in 35 Ill. Adm. Code ~~720.111, 720.111(b); and Illinois DNS-IEMA~~ manifest requirements under 32 Ill. Adm. Code 340; ~~and~~ the federal NRC transportation requirements under 10 CFR 71.5 (Transportation of Licensed Material), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and the ~~Illinois DNS-IEMA~~ transportation requirements under 32 Ill. Adm. Code 341 to ship the exempted waste.

#### Section 726.430      Effectiveness of a Transportation and Disposal Exemption

The exemption becomes effective once all of the following have occurred:

\* \* \*

- c) The generator has completed the packaging and preparation for shipment requirements for its waste according to federal NRC packaging and transportation regulations found under 10 CFR 71 (Packaging and Transportation of Radioactive Material), incorporated by reference in 35 Ill. Adm. Code ~~720.111, 720.111(b)~~, and under ~~Illinois DNS-IEMA~~ regulations ~~under~~ at 32 Ill. Adm. Code 341; and a generator has prepared a manifest for a generator's waste according to NRC manifest regulations found under 10 CFR 20 (Standards for Protection Against Radiation), incorporated by reference in 35 Ill. Adm. Code 720.111(b), or under ~~Illinois DNS-IEMA~~ regulations under 32 Ill. Adm. Code 340; and
- d) The generator has placed its waste on a transportation vehicle destined for a LLRWDF licensed by the federal NRC, the ~~Illinois DNS-IEMA~~, or by a nuclear licensing agency in another state.

#### Section 726.435      Disposal of Exempted Waste

A generator's exempted waste must be disposed of in a LLRWDF that is regulated and licensed by the federal NRC under 10 CFR 61, by the ~~Illinois DNS-IEMA~~ under 32 Ill. Adm. Code: Chapter II, Subchapters b and d, or by a licensing agency in another state, including State NARM licensing regulations for eligible NARM.

Section 726.445 Notification

- a) A generator must provide a one time notice to the Agency and the ~~Illinois DNS~~ IEMA stating that it is claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from the generator’s facility to a LLRWDF. The generator’s dated written notice must include its facility name, address, phone number, and RCRA ID number and be sent by certified delivery.

\* \* \*

Section 726.450 Recordkeeping for a Transportation and Disposal Conditional Exemption

In addition to those records required by a generator’s NRC or ~~Illinois DNS~~ IEMA license, the generator must keep records as follows:

\* \* \*

- e) If the generator is not already subject to federal NRC and ~~Illinois DNS~~ IEMA manifest and transportation regulations for the shipment of its waste, the generator must also keep all other documents related to tracking the exempted waste as required under federal 10 CFR 20.2006 (Transfer for Disposal and Manifests), incorporated by reference in 35 Ill. Adm. Code ~~720.111~~ 720.111(b), and ~~Illinois DNS~~ IEMA requirements under 32 Ill. Adm. Code 340, including applicable NARM requirements, in addition to the records specified in subsections (a) through (d) of this Section.

Section 726.460 Reclaiming a Lost Transportation and Disposal Conditional Exemption

- a) A generator may reclaim a lost transportation and disposal conditional exemption for a waste after the generator has received a return receipt confirming that the Agency and the ~~Illinois DNS~~ IEMA have received the generator’s notification of the loss of the exemption specified in Section 726.455(a) and if the following conditions are fulfilled:

\* \* \*

Section 728.Table T Treatment Standards for Hazardous Wastes

Note: The treatment standards that heretofore appeared in tables in Sections 728.141, 728.142, and 728.143 have been consolidated into this table.

Waste Code		
Waste Description and Treatment or Regulatory Subcategory <sup>1</sup>		
Regulated Hazardous Constituent	Wastewaters	Nonwastewaters

\* \* \*

D014<sup>9</sup>

Wastes that are TC for ~~Methoxychlor~~ methoxychlor based on ~~the toxicity characteristic leaching procedure~~ Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846-Method 1311, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Methoxychlor	72-43-5	WETOX or CMBST	0.18 and meet Section 728.148 standards <sup>8</sup>
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D015<sup>9</sup>

Wastes that are TC for ~~Toxaphene~~ toxaphene based on ~~the toxicity characteristic leaching procedure~~ Method 1311 (Toxicity Characteristic Leaching Procedure (TCLP)) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846-Method 1311, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

Toxaphene	8001-35-2	BIODG or CMBST	2.6 and meet Section 728.148 standards <sup>8</sup>
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\* \* \*

Section 738.122      Submission, Review, and Approval or Denial of Petitions

- a) Any petition submitted to the Board, pursuant to Section 738.120(a) of this Part, must include the following:

\* \* \*

- 4) This statement signed by the petitioner or an authorized representative:

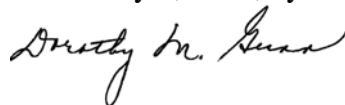
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is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

\* \* \*

IT IS SO ORDERED.



I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above supplemental opinion and order on February 2, 2006, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board