



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

January 2, 2019

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

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JAN 07 2019

STATE OF ILLINOIS
Pollution Control Board

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 42, Issue 52 of the Illinois Register, dated 12/28/2018.

ADOPTED RULES

Land Disposal Restrictions 35 Ill. Adm. Code 728 Point of Contact: Mike McCambridge	24924
Standards for Universal Waste Management 35 Ill. Adm. Code 733 Point of Contact: Mike McCambridge	25200
Hazardous Waste Injection Restrictions 35 Ill. Adm. Code 738 Point of Contact: Mike McCambridge	25244

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hazardous Waste Injection Restrictions
- 2) Code citation: 35 Ill. Adm. Code 738
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
738.101	Amendment
738.102	Amendment
738.103	Amendment
738.104	Amendment
738.110	Amendment
738.111	Amendment
738.112	Amendment
738.114	Amendment
738.115	Amendment
738.116	Amendment
738.117	Amendment
738.118	Amendment
738.120	Amendment
738.121	Amendment
738.122	Amendment
738.123	Amendment
738.124	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective date of rule: **NOV 19 2018**
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12694; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to

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ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 11) Differences between the proposal and the final version: A table in a document entitled “Identical-in-Substance Rulemaking Addendum (Final)” that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board’s review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.

- 14) Are there any other rulemakings pending on this Part? No.

- 15) Summary and purpose of rulemaking: The amendments to Part 738 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are the fifth and final group for publication: 35 Ill. Adm. Code 728, 733, 738, and 739.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 728. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 738 incorporate an amendment that USEPA necessitated but overlooked in its November 28, 2016 adopting the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
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312-814-6924
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Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620.
You may also obtain a copy of the Board's opinion and order from the Internet at
<http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 738
HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

Section	
738.101	Purpose, Scope, and Applicability
738.102	Definitions
738.103	Dilution Prohibited as a Substitute for Treatment
738.104	Case-by-Case Extensions of an Effective Date
738.105	Waste Analysis
738.106	Electronic Reporting

SUBPART B: PROHIBITIONS ON INJECTION

Section	
738.110	Waste-Specific Prohibitions: Solvent Wastes
738.111	Waste-Specific Prohibitions: Dioxin-Containing Wastes
738.112	Waste-Specific Prohibitions: California List Wastes
738.114	Waste-Specific Prohibitions: First Third Wastes
738.115	Waste-Specific Prohibitions: Second Third Wastes
738.116	Waste-Specific Prohibitions: Third Third Wastes
738.117	Waste-Specific Prohibitions: Newly-Listed Wastes
738.118	Waste-Specific <u>Prohibitions-prohibitions</u> : Newly-Listed and Identified Wastes

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section	
738.120	Petitions to Allow Injection of a Prohibited Waste
738.121	Required Information to Support Petitions
738.122	Submission, Review, and Approval or Denial of Petitions
738.123	Review of Adjusted Standards
738.124	Termination of Approved Petition

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted in R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 738.101 Purpose, Scope, and Applicability

- a) This Part identifies hazardous wastes that are restricted from disposal into Class I injection wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.
- b) The requirements of this Part apply to owners or operators of ~~the following~~ Class I hazardous waste injection wells used to inject hazardous waste:
 - 1) ~~Hazardous waste injection wells that are used to inject hazardous waste;~~
and
 - 2) ~~Injection wells that are used to inject wastes that once exhibited a prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721, at the point of generation, and which no longer exhibit the characteristic at the point of injection.~~
- c) Wastes otherwise prohibited from injection may continue to be injected under any of the following circumstances:
 - 1) If USEPA has granted an extension from the effective date of a prohibition, as described in Section 738.104; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition filed under Section 738.120; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code ~~720.110-721.105~~.
- d) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited from injection under this Part or 35 Ill. Adm. Code 728 is not prohibited from injection if the following is true of the waste:
 - 1) It is disposed into a non-hazardous or hazardous waste injection well, as defined under 35 Ill. Adm. Code 730.106(a); and
 - 2) It does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

BOARD NOTE: Derived from 40 CFR 148.1 ~~(2017)-(2005)~~.

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

Section 738.102 Definitions

“Injection interval” means that part of the injection zone in which the well is screened or in which the waste is otherwise directly emplaced.

“Transmissive fault or fracture” is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

“USEPA hazardous waste number” means the number assigned by USEPA pursuant 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.

BOARD NOTE: Derived from 40 CFR 148.2 ~~(2017)-(2005)~~.

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

Section 738.103 Dilution Prohibited as a Substitute for Treatment

a) ~~—The provisions of 35 Ill. Adm. Code 728.103 apply to owners or operators of Class I hazardous waste injection wells used to inject a waste that is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.~~

b) ~~—The owner or operator of a Class I non-hazardous waste injection well that injects waste formerly exhibiting a hazardous characteristic that has been removed by dilution may address underlying hazardous constituents by treating the hazardous~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~waste, by obtaining an exemption pursuant to a petition filed under Section 738.120, or by complying with the provisions set forth in 35 Ill. Adm. Code 728.109.~~

BOARD NOTE: Derived from 40 CFR 148.3 ~~(2017)~~-(2005).

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

Section 738.104 Case-by-Case Extensions of an Effective Date

The owner or operator of a Class I hazardous ~~or non-hazardous~~ waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B ~~of this Part~~ pursuant to 40 CFR 268.5. Any extension that is granted by USEPA will be deemed an extension of the effective date of the derivative Board rule.

BOARD NOTE: Derived from 40 CFR 148.4 ~~(2017)~~-(2005).

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

SUBPART B: PROHIBITIONS ON INJECTION

Section 738.110 Waste-Specific Prohibitions: Solvent Wastes

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F001, F002, F003, F004, and F005.
- b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.10 ~~(2017)~~-(2005).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 738.111 Waste-Specific Prohibitions: Dioxin-Containing Wastes

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F020, F021, F022, F023, F026, F027, and F028.
- b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.11 (2017) ~~(2005)~~.

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

Section 738.112 Waste-Specific Prohibitions: California List Wastes

- a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.
- b) The following hazardous wastes are prohibited from underground injection:
 - 1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l;
 - 2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals ~~(or elements)~~ or compounds of ~~these metals (or elements)~~ at a concentration ~~concentrations~~ greater than or equal to that specified in this subsection (b)(2) ~~those specified below~~:
 - A) Arsenic or compounds (as As) 500 mg/l;
 - B) Cadmium or compounds (as Cd) 100 mg/l;

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- C) Chromium (VI) or compounds (as Cr VI) 500 mg/ℓ;
 - D) Lead or compounds (as Pb) 500 mg/ℓ;
 - E) Mercury or compounds (as Hg) 20 mg/ℓ;
 - F) Nickel or compounds (as Ni) 134 mg/ℓ;
 - G) Selenium or compounds (as Se) 100 mg/ℓ; and
 - H) Thallium or compounds (as Tl) 130 mg/ℓ;
- 3) Liquid hazardous waste having a pH less than or equal to two (2.0); and
 - 4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1,000 mg/kg.
- c) The requirements of subsections (a) and (b) ~~of this Section~~ do not apply under any of the following circumstances:
- 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 ~~(2017)~~-(2005).

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

Section 738.114 Waste-Specific Prohibitions: First Third Wastes

- a) Prohibitions:
 - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F006 (wastewaters and nonwastewaters), F008, F009, F019.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K001, K004, K008, K015 (wastewaters and nonwastewaters), K016 (at concentrations greater than or equal to one percent), K017, K018, K019, K020, K021 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K022 (wastewaters and nonwastewaters), K024, K030, K031, K035, K036 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K037, K044, K045, K046 (wastewaters and nonwastewaters), K047, K048, K049, K050, K051, K052, K060 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K061 (wastewaters and nonwastewaters), K062, K069 (calcium sulfate nonwastewaters; all wastewaters; and noncalcium sulfate nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K071, K073, K083, K084, K085, K086, K087, K099, K101 (all wastewaters and nonwastewaters), K102 (all wastewaters and nonwastewaters), K103, K104, and K106.
- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P001, P004, P005, P010, P011, P012, P015, P016, P018, P020, P030, P036, P037, P039, P041, P048, P050, P058, P059, P063, P068, P069, P070, P071, P081, P082, P084, P087, P089, P092, P094, P097, P102, P105, P108, P110, P115, P120, P122, P123, U007, U009, U010, U012, U016, U018, U019, U022, U029, U031, U036, U037, U041, U043, U044, U046, U050, U051, U053, U061, U063, U064, U066, U067, U074, U077, U078, U086, U089, U103, U105, U108, U115, U122, U124, U129, U130, U133, U134, U137, U151, U154, U155, U157, U158, U159, U171, U177, U180, U185, U188, U192, U200, U209, U210, U211, U219, U220, U221, U223, U226, U227, U228, U237, U238, U248, and U249.
- b) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K016 (at concentrations less than one percent).
- c) Prohibitions:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F007.
- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (nonwastewaters) and K013 (nonwastewaters).
- d) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (wastewaters), K013 (wastewaters), and K014.
- e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728;~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition by USEPA as referenced in Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 (2017) ~~(2005)~~.

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

Section 738.115 Waste-Specific Prohibitions: Second Third Wastes

- a) Prohibitions:
 - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F010 and F024.
 - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K009 (nonwastewaters), K010, K025 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K027, K028, K029 (wastewaters and

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

nonwastewaters), K038, K039, K040, K041, K042, K043, K095 (wastewaters and nonwastewaters), K096 (wastewaters and nonwastewaters), K097, K098, K105, K113, K114, K115, and K116.

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P002, P003, P007, P008, P014, P026, P027, P029, P040, P043, P044, P049, P054, P057, P060, P062, P066, P067, P072, P074, P085, P098, P104, P106, P107, P111, P112, P113, P114, U002, U003, U005, U008, U011, U014, U015, U020, U021, U023, U025, U026, U028, U032, U035, U047, U049, U057, U058, U059, U060, U062, U070, U073, U080, U083, U092, U093, U094, U095, U097, U098, U099, U101, U106, U107, U109, U110, U111, U114, U116, U119, U127, U128, U131, U135, U138, U140, U142, U143, U144, U146, U147, U149, U150, U161, U162, U163, U164, U165, U168, U169, U170, U172, U173, U174, U176, U178, U179, U189, U193, U196, U203, U205, U206, U208, U213, U214, U215, U216, U217, U218, U235, U239, and U244.
- b) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection pursuant to the treatment standards specified in 35 Ill. Adm. Code 728.141 and 728.143 applicable to F011 and F012 wastewaters and nonwastewaters: F011 (nonwastewaters) and F012 (nonwastewaters).
- c) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K009 (wastewaters).
- d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.15 (2017)-(2005).

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

Section 738.116 Waste-Specific Prohibitions: Third Third Wastes

a) Prohibitions-

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F025 and F039 (nonwastewaters).
- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K002, K003, K005 (wastewaters and nonwastewaters), K006, K007 (wastewaters and nonwastewaters), K023, K026, K032, K033, K034, K093, K094, and K100.
- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P006, P009, P013, P017, P021, P022, P023, P024, P028, P031, P033, P034, P038, P042, P045, P046, P047, P051, P056, P064, P065, P073, P075, P076, P077, P078, P088, P093, P095, P096, P099, P101, P103, P109, P116, P118, P119, P121, U001, U004, U006, U017, U024, U027, U030, U033, U034, U038, U039, U042, U045, U048, U052, U055, U056, U068, U069, U071, U072, U075, U076, U079, U081, U082, U084, U085, U087, U088, U090, U091, U096, U102, U112, U113, U117, U118, U120, U121, U123, U125, U126, U132, U136, U141, U145, U148, U152, U153, U156, U160, U166, U167, U181, U182, U183, U184, U186, U187, U190, U191, U194, U197, U201, U202, U204, U207, U222, U225, U234, U236, U240, U243, U246, and U247.
- 4) The wastes specified in 35 Ill. Adm. Code 721.121 or 721.124 by characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D001, D004, D005, D006, D008, D009 (wastewaters), D010, D011, D012, D013, D014, D015, D016, and D017.

b) Mixed radioactive and hazardous wastes in 35 Ill. Adm. Code 728.110, 728.111, and 728.112, which are mixed radioactive and hazardous wastes, are prohibited from underground injection.

c) Prohibitions-

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F039-~~(nonwastewaters)~~ (wastewaters).
- 2) The wastes specified in 35 Ill. Adm. Code 721.122, 721.123, or 721.124 as hazardous based on a characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D002 (wastewaters and nonwastewaters), D003 (wastewaters and nonwastewaters), D007 (wastewaters and nonwastewaters), and D009 (nonwastewaters).
- d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.16 (2017)-~~(2005)~~.

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

Section 738.117 Waste-Specific Prohibitions: Newly-Listed Wastes

- a) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: F037, F038, K107, K108, K109, K110, K111, K112, K117, K118, K123, K124, K125, K126, K131, K136, U328, U353, and U359.
- b) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151.
- c) This subsection (c) corresponds with 40 CFR 148.17(c), removed and marked "reserved" by USEPA at 61 Fed. Reg. 15662 (April 8, 1996). This statement maintains structural consistency with USEPA rules.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K117, K118, K131, and K132.
- e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
 - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.17 (2017) ~~(2005)~~.

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

Section 738.118 Waste-Specific Prohibitions: Newly-Listed and Identified Wastes

- a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b) ~~of this Section~~, are prohibited from underground injection.
- b) Characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.
- c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.
- d) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.
- e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205,

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.

- f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 are prohibited from underground injection.
- g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043.
- h) This subsection (h) corresponds with 40 CFR 148.18(h), which USEPA has removed and marked “reserved.”. This statement maintains structural consistency with the federal regulations.
- i) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.
- j) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K174 and K175 are prohibited from underground injection.
- k) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K176, K177, and K178 are prohibited from underground injection.
- l) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K181 are prohibited from underground injection.
- m) The requirements of subsections (a) through (l) of this Section do not apply under any of the following circumstances:
 - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; ~~or~~
 - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C of this Part; or
 - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: Derived from 40 CFR 148.18 ~~(2017)~~-(2005).

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

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.120 Petitions to Allow Injection of a Prohibited Waste

- a) Any person seeking an exemption from a prohibition under Subpart B of this Part for the injection of a restricted hazardous waste, ~~including a hazardous waste that exhibits a characteristic of hazardous waste and which contains underlying hazardous constituents at the point of generation, but which no longer exhibits a characteristic of hazardous waste when injected into an~~ a Class I injection well or wells; must submit a petition for an adjusted standard to the Board, pursuant to Subpart D of 35 Ill. Adm. Code 104, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing of the following:
- 1) The hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream are such that reliable predictions can be made with regard to each of the following:
 - A) Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years in either of the following ways:
 - i) Vertically upward out of the injection zone; or
 - ii) Laterally within the injection zone to a point of discharge or interface with an underground source of drinking water (USDW), as defined in 35 Ill. Adm. Code 730; or
 - B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with a USDW, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions, or other means; and
 - 2) For each well, the petition has fulfilled the following requirements:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- A) It has demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;
- B) It has located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;
- C) It has provided a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which will become a condition of any adjusted standard granted; and
- D) It has provided the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection (a)(2) ~~of this Section~~ need not be incorporated in a permit at the time the Board grants an adjusted standard.

- b) A demonstration under subsection (a)(1)(A) ~~of this Section~~ must identify the strata within the injection zone which will confine fluid movement above the injection interval, and it must include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- c) A demonstration under subsection (a)(1)(B) ~~of this Section~~ must identify the strata within the injection zone where waste transformation will be accomplished, and it must include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- d) A demonstration may include either of the following features, which will become a condition of the adjusted standard:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Treatment methods that the owner or operator will use to reduce the toxicity or mobility of the wastes; or
 - 2) A monitoring plan that the owner or operator will use to enhance confidence in one or more aspects of the demonstration.
- e) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions imposed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b), and (c) ~~of this Section~~.
- f) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board will grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that the additional waste or wastes will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 (2017)-(2005).

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

Section 738.121 Required Information to Support Petitions

- a) Information submitted in support of a Section 738.120 petition must meet the following requirements:
- 1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;
 - 2) The following must be true with regard to estimation and monitoring techniques and the identification of applicable existing USEPA-certified test protocols:
 - A) All estimation and monitoring techniques must be approved by the Board; and

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;
 - 3) Predictive models must have been verified and validated, must be appropriate for the specific site, waste streams, and injection conditions of the operation, and they must be calibrated for existing sites where sufficient data are available;
 - 4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;
 - 5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and
 - 6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner must conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.
- b) Any petitioner under Section 738.120(a)(1)(A) must provide sufficient site-specific information to support the demonstration, such as the following:
- 1) The thickness, porosity, permeability and extent of the various strata in the injection zone;
 - 2) The thickness, porosity, permeability, extent and continuity of the confining zone;
 - 3) The hydraulic gradient in the injection zone;
 - 4) The hydrostatic pressure in the injection zone; and
 - 5) The geochemical conditions of the site.
- c) In addition to the information in subsection (b) ~~of this Section~~, any petitioner under Section 738.120(a)(1)(B) ~~of this Part~~ must provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner must provide the information necessary to support the demonstration, such as the following:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) A description of the chemical processes or other means that will lead to waste transformation; and
- 2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 (2017)-(2005).

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

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:
 - 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
 - 2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;
 - 3) Such additional information as the Board requires to support the petition pursuant to Section 738.120 and Section 738.121 ~~of this Part~~; and
 - 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.

- b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.
- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10 years.
- e) Each adjusted standard granted pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 (2017) ~~(2005)~~.

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

Section 738.123 Review of Adjusted Standards

- a) Agency Review ~~review~~:
 - 1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency must review any adjusted standard granted by the Board pursuant to this Subpart C.
 - 2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency must request in writing that the permittee submit a petition to the Board to modify the adjusted standard.
 - 3) All petitions requested by the Agency pursuant to subsection (a)(2) ~~of this Section~~ must be filed pursuant to Section section ~~738.120(f)~~. Such a petition may seek reaffirmation of the adjusted standard without modification.
 - 4) Permittee's Failure failure to file a Petition petition, Agency Petitions Petitions ~~petitions~~ for Reconsideration reconsideration, and Board Reconsideration of Adjusted Standards adjusted standards.
 - A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2) ~~of this Section~~, the Agency may petition the Board for reconsideration of any adjusted standard granted

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.

B) Board Review ~~review~~.

- i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same extent that it would review a new petition for an adjusted standard.
- ii) The Board may treat a motion for reconsideration of an adjusted standard as a new petition under Section 738.120 and require that the full requirements of that Section and of Subpart D of 35 Ill. Adm. Code 104 apply to the proceeding, with the Agency acting as the petitioner.

- b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 (2017) ~~(2005)~~.

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

Section 738.124 Termination of Approved Petition

a) Termination Through ~~through an Enforcement Action~~ ~~enforcement action~~.

- 1) An enforcement action against an owner or operator having an adjusted standard and limitation on Agency petitions for reconsideration of an adjusted standard:
 - A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of the Environmental Protection Act ~~[415 ILCS 5/33]~~ for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.
 - B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.

- 2) In any action under subsection (a)(1) ~~of this Section~~, if the Board finds a violation of the Act or Board regulations, the Board may terminate any adjusted standard granted under Section 738.120 for any of the following causes:
 - A) Noncompliance by the owner or operator with any condition of the adjusted standard;
 - B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or
 - C) A determination that new information shows that the basis for approval of the petition is no longer valid.

- b) In any action under subsection (a)(1) ~~of this Section~~, the Board will terminate an adjusted standard granted under Section 738.120 for the following causes:
 - 1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the Board's decision on the petition;
 - 2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where both of the following conditions are fulfilled:
 - A) The migration resulted from a mechanical failure of the well that can be promptly corrected through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and
 - B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 (2017)-(2005).

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for Universal Waste Management
- 2) Code citation: 35 Ill. Adm. Code 733
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
733.101	Amendment
733.102	Amendment
733.103	Amendment
733.105	Amendment
733.108	Amendment
733.113	Amendment
733.114	Amendment
733.115	Amendment
733.118	Amendment
733.120	Amendment
733.133	Amendment
733.134	Amendment
733.135	Amendment
733.138	Amendment
733.139	Amendment
733.140	Amendment
733.151	Amendment
733.152	Amendment
733.153	Amendment
733.156	Amendment
733.161	Amendment
733.162	Amendment
733.170	Amendment
733.180	Amendment
733.181	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective date of rule: **NOV 19 2018**
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31,

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NOV 19 2018

SOS-CODE DIV.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12649; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of rulemaking: The amendments to Part 733 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the fifth and final group for publication: 35 Ill. Adm. Code 728, 733, 738, and 739.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 728. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 733 incorporate USEPA's actions of November 28, 2016 adopting hazardous waste export-import revisions and the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500

Chicago, IL 60601
312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART A: GENERAL

Section	
733.101	Scope
733.102	Applicability: Batteries
733.103	Applicability: Pesticides
733.104	Applicability: Mercury-Containing Equipment
733.105	Applicability: Lamps
733.106	Applicability: Mercury-Containing Equipment (Repealed)
733.107	Applicability: Mercury-Containing Lamps (Repealed)
733.108	Applicability: Household and Conditionally Exempt Small Quantity Generator Waste
733.109	Definitions

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section	
733.110	Applicability
733.111	Prohibitions
733.112	Notification
733.113	Waste Management
733.114	Labeling and Marking
733.115	Accumulation Time Limits
733.116	Employee Training
733.117	Response to Releases
733.118	Off-Site Shipments
733.119	Tracking Universal Waste Shipments
733.120	Exports

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section	
733.130	Applicability
733.131	Prohibitions

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

733.132	Notification
733.133	Waste Management
733.134	Labeling and Marking
733.135	Accumulation Time Limits
733.136	Employee Training
733.137	Response to Releases
733.138	Off-Site Shipments
733.139	Tracking Universal Waste Shipments
733.140	Exports

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section	
733.150	Applicability
733.151	Prohibitions
733.152	Waste Management
733.153	Accumulation Time Limits
733.154	Response to Releases
733.155	Off-site Shipments
733.156	Exports

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section	
733.160	Applicability
733.161	Off-Site Shipments
733.162	Tracking Universal Waste Shipments

SUBPART F: IMPORT REQUIREMENTS

Section	
733.170	Imports

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section	
733.180	General
733.181	Factors for Petitions to Include Other Wastes

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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. 6058, effective April 13, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1352, effective December 20, 2006; amended in R16-7 at 40 Ill. Reg. 12268, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

- a) This Part establishes requirements for managing the following:
 - 1) Batteries, as described in Section 733.102;
 - 2) Pesticides, as described in Section 733.103;
 - 3) Mercury-containing equipment, as described in Section 733.104; and
 - 4) Lamps, as described in Section 733.105.
- b) This Part provides an alternative set of management standards in lieu of regulation pursuant to 35 Ill. Adm. Code 702 through 705 and 720 through 728.
- c) ~~Electronic Reporting-reporting~~. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3, as ~~added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2017)-(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

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

Section 733.102 Applicability: Batteries

- a) Batteries ~~Covered covered~~ under This this Part.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The requirements of this Part apply to persons managing batteries, as described in Section 733.109, except those listed in subsection (b) ~~of this Section.~~
 - 2) Spent lead-acid batteries that are not managed under Subpart G of 35 Ill. Adm. Code 726, are subject to management under this Part.
- b) Batteries Not Covered ~~not covered~~ under This ~~this~~ Part. The requirements of this Part do not apply to persons managing the following batteries:
- 1) Spent lead-acid batteries that are managed under Subpart G of 35 Ill. Adm. Code 726;
 - 2) Batteries, as described in Section 733.109, that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~; or
 - 3) Batteries, as described in Section 733.109, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) Generation of Waste Batteries ~~waste batteries~~.
- 1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).
 - 2) An unused battery becomes a waste on the date the handler decides to discard it.

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

Section 733.103 Applicability: Pesticides

- a) Pesticides Covered ~~covered~~ under This ~~this~~ Part. The requirements of this Part apply to persons managing pesticides, as described in Section 733.109, that meet the following conditions, except those listed in subsection (b) ~~of this Section~~:
 - 1) Recalled pesticides, as follows:
 - A) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under Section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

136q(b)), including, but not limited to those owned by the registrant responsible for conducting the recall; or

- B) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant; or
- 2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
- b) Pesticides Not Covered ~~not covered~~ under This ~~this~~ Part. The requirements of this Part do not apply to persons managing the following pesticides:
 - 1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~ and unused pesticide products described in subsection (a)(2) ~~of this Section~~ that are managed by farmers in compliance with 35 Ill. Adm. Code 722.170. (35 Ill. Adm. Code 722.170 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 35 Ill. Adm. Code 721.107(b)(3).);
 - 2) Pesticides not meeting the conditions set forth in subsection (a) ~~of this Section~~ must be managed in compliance with the hazardous waste regulations in 35 Ill. Adm. Code 702 through 705 and 720 through 728;
 - 3) Pesticides that are not wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~ or those that are not wastes as described in subsection (d) ~~of this Section~~; and
 - 4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is a waste (see subsection (b)(3) ~~of this Section~~) and either it is listed in Subpart D of 35 Ill. Adm. Code 721 or it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) When a Pesticide Becomes ~~pesticide becomes a~~ Waste ~~waste~~.
 - 1) A recalled pesticide described in subsection (a)(1) ~~of this Section~~ becomes a waste on the first date on which both of the following conditions apply:
 - A) The generator of the recalled pesticide agrees to participate in the recall; and

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).
- 2) An unused pesticide product described in subsection (a)(2) ~~of this Section~~ becomes a waste on the date the generator decides to discard it.
- d) Pesticides That Are Not Wastes ~~that are not wastes~~. The following pesticides are not wastes:
 - 1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~, provided that either of the following conditions exist:
 - A) The person conducting the recall has not made a decision to discard the pesticide (e.g., burn it for energy recovery). Until such a decision is made, the pesticide does not meet the definition of “solid waste” under 35 Ill. Adm. Code 721.102; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including those of this Part. This pesticide remains subject to the requirements of FIFRA; or
 - B) The person conducting the recall has made a decision to use a management option that, under 35 Ill. Adm. Code 721.102, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Part. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; and
 - 2) Unused pesticide products described in subsection (a)(2) ~~of this Section~~, if the generator of the unused pesticide product has not decided to discard them (e.g., burn for energy recovery). These pesticides remain subject to the requirements of FIFRA.

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

Section 733.105 Applicability: Lamps

- a) Lamps Covered ~~covered~~ under This this Part. The requirements of this Part apply to persons that manage lamps, as described in Section 733.109, except those listed in subsection (b) ~~of this Section~~.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) Lamps ~~Not Covered~~ ~~not covered~~ under ~~This this~~ Part. The requirements of this Part do not apply to persons that manage the following lamps:
- 1) Lamps that are not yet wastes under 35 Ill. Adm. Code 721, as provided in subsection (c) ~~of this Section~~; and
 - 2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) Generation of Waste Lamps ~~waste lamps~~.
- 1) A used lamp becomes a waste on the date it is discarded.
 - 2) An unused lamp becomes a waste on the date the handler decides to discard it.

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

Section 733.108 Applicability: Household and Conditionally Exempt Small Quantity Generator Waste

- a) A person that manages any of the wastes listed below may, at its option, manage the waste under the requirements of this Part.
- 1) Household wastes that are exempt under 35 Ill. Adm. Code 721.104(b)(1) and which are also of the same type as the universal wastes defined at Section 733.109; or
 - 2) VSQG ~~Conditionally exempt small quantity generator~~ wastes that are exempt under 35 Ill. Adm. Code ~~722.114-721.105~~ and are also of the same type as the universal wastes defined at Section 733.109.
- b) A person that commingles the wastes described in subsections (a)(1) and (a)(2) ~~of this Section~~ together with universal waste regulated under this Part must manage the commingled waste under the requirements of this Part.

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

- a) Universal ~~Waste Batteries~~ ~~waste batteries~~. A small quantity handler of universal waste must 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 must 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; and
 - 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 in subsection (a)(2) ~~of this Section~~, must determine whether the electrolyte or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

- 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 and 720 through 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 (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous 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 ~~waste pesticides~~. A small quantity handler of universal waste must 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) ~~of this Section~~;
 - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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 Mercury-Containing Equipment~~waste mercury-containing equipment~~. A small quantity handler of universal waste must manage universal waste 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 must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed; must be structurally sound; must be compatible with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
 - 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler follows each of the following procedures:
 - A) It removes and manages 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 that containment device to a container that meets the requirements of 35 Ill. Adm. Code ~~722.115-722.134~~;
 - 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 ~~722.115-722.134~~;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:
- A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
 - B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.
- 4) Required Hazardous Waste Determination ~~hazardous waste determination~~ and Further Waste Management ~~further waste management~~.
- A) A small quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:
 - i) Mercury or clean-up residues resulting from spills or leaks;
or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining 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 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 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 (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous 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 must 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 must 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 must immediately clean up and place in a container any lamp that is broken, and the small quantity handler must 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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

- 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 must not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an eight-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 35 Ill. Adm. Code ~~722.115-722.134~~, 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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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.

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

Section 733.114 Labeling and Marking

A small quantity handler of universal waste must 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~~,” “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—Waste—Pesticides~~” or “~~Waste—Pesticides—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-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 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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—Waste Pesticides” or “Waste—Pesticides—Waste Pesticides”.
- d) Universal Waste Mercury-Containing Equipment ~~waste mercury-containing equipment and Universal Waste Thermostat Labeling—universal waste thermostat labeling:~~
- 1) Universal waste mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste—Mercury-Containing Waste—Mercury-Containing Equipment,”¹ or “Waste Mercury-Containing Equipment,”¹ or “Used Mercury-Containing Equipment.”¹
- 2) 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 Waste—Mercury Thermostats,”¹ or “Waste Mercury Thermostats,”¹ or “Used Mercury Thermostats”.
- 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,”¹ “Waste Lamps,”¹ or “Used Lamps.”¹

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

Section 733.115 Accumulation Time Limits

- a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.
- b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment,

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal.

- c) A small quantity handler of universal waste that accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
- 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - 2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
 - 3) Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;
 - 4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - 6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

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

Section 733.118 Off-Site Shipments

- a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

transportation activities and must comply with the transporter requirements of Subpart D of this Part while transporting the universal waste.

- c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a small quantity handler of universal waste must package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.
- e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:
 - 1) Receive the waste back when notified that the shipment has been rejected;
or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Send the shipment back to the originating handler; or
 - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.120 Exports

A small quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is~~ subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.) ~~shall do the following:~~

- a) ~~Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~
- b) ~~Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgment of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~
- e) ~~Provide a copy of the USEPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.133 Waste Management

- a) Universal ~~Waste Batteries~~ ~~waste batteries~~. A large quantity handler of universal waste must 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 must 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,

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

discarded consumer products) as a result of the activities listed in subsection (a)(2) ~~of this Section~~ must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

- 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 and 720 through 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 (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous 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 ~~waste pesticides~~. A large quantity handler of universal waste must 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) ~~of this Section~~;
 - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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 Mercury-Containing Equipment~~ ~~waste mercury-containing equipment~~. A large quantity handler of universal waste must manage universal waste 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 must place in a container any universal mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed; must be structurally sound; must be compatible with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
 - 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste 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 ~~722.115-722.134~~;
 - 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 ~~722.115-722.134~~;

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:
- A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
 - B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) ~~of this Section.~~
- 4) Required Hazardous Waste Determination ~~hazardous waste determination~~ and Further Waste Management ~~further waste management.~~
- A) A large quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:
 - i) Mercury or clean-up residues resulting from spills or leaks;
or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining 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 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 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 (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous 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 must 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 must 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 must immediately clean up and place in a container any lamp that is broken, and the large quantity handler must 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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

- 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 must 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 35 Ill. Adm. Code ~~722.115-722.134~~, 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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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.

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

Section 733.134 Labeling and Marking

A large quantity handler of universal waste must 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”~~Waste—Batteries~~; or “Waste Batteries”~~Waste—Batteries~~; or “Used Batteries”~~Waste—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”~~Waste—Pesticides~~ or “Waste—Pesticides”~~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~~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 pursuant to the USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 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 Mercury-Containing Equipment ~~waste mercury-containing equipment~~ and Universal Waste Thermostat Labeling ~~universal waste thermostat labeling~~:
- 1) Mercury-containing equipment (*i.e.*, each device) 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” ~~“Universal Waste—Mercury Containing Equipment,”~~, “Waste Mercury-Containing” ~~“Waste Mercury-Containing Equipment,”~~, or “Used Mercury-Containing Equipment”.
- 2) A universal waste mercury-containing thermostat or a container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any one of the following phrases: “Universal Waste—Mercury” ~~“Universal Waste—Mercury Thermostats,”~~, “Waste Mercury” ~~“Waste Mercury Thermostats,”~~, or “Used Mercury Thermostats”.
- 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” ~~“Universal Waste—Lamps,”~~, “Waste Lamps” ~~“Waste Lamps,”~~, or “Used Lamps”.

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

Section 733.135 Accumulation Time Limits

- a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.
- b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

- c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
- 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - 2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
 - 3) Maintaining an on-site inventory system that identifies the date the universal waste being accumulated became a waste or was received;
 - 4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - 6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

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

Section 733.138 Off-Site Shipments

- a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subpart D of this Part while transporting the universal waste.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.
- e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:
 - 1) Receive the waste back when notified that the shipment has been rejected; or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:
 - 1) Send the shipment back to the originating handler; or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.139 Tracking Universal Waste Shipments

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:

- 1) The name and address of the universal waste handler, destination facility, or foreign destination to which the universal waste was sent;
 - 2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and
 - 3) The date the shipment of universal waste left the facility.
- c) Record Retention ~~retention~~.
- 1) A large quantity handler of universal waste must retain the records described in subsection (a) ~~of this Section~~ for at least three years from the date of receipt of a shipment of universal waste.
 - 2) A large quantity handler of universal waste must retain the records described in subsection (b) ~~of this Section~~ for at least three years from the date a shipment of universal waste left the facility.

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

Section 733.140 Exports

A large quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.)~~ must do the following:

- a) ~~Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~
- b) ~~Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~
- e) ~~Provide a copy of the USEPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.~~

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.151 Prohibitions

- a) A universal waste transporter is prohibited from the following:
 - 1) Disposing of universal waste; and
 - 2) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (b).

- b) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
 - 1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an 8-hour period;
 - 2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - A) Name and address of the transporter;
 - B) Estimated monthly amount of lamps crushed; and
 - C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (b)(1) ~~of this Section~~;
 - 3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code ~~722.115-722.134~~, and has available equipment necessary to comply with this requirement;
 - 4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 5) The transporter ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- 6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

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

Section 733.152 Waste Management

- a) A universal waste transporter must comply with all applicable USDOT regulations in 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b) for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b). For purposes of the USDOT regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of 35 Ill. Adm. Code 722. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the USDOT regulations.
- b) Some universal waste materials are regulated by the USDOT as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2 (Hazardous Materials Classes and Index to Hazard Class Definitions), incorporated by reference in Section 720.111(b). As universal waste shipments do not require a manifest under 35 Ill. Adm. Code 722, they may not be described by the USDOT proper shipping name “hazardous waste, (l) or (s), n.o.s.,” nor may the hazardous material’s proper shipping name be modified by adding the word “waste.”

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 733.153 Accumulation Time Limits

- a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.
- b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Subpart B or C of this Part while storing the universal waste.

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

Section 733.156 Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the transporter is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.) may not accept a shipment if the transporter knows the shipment does not conform to the USEPA Acknowledgment of Consent. In addition the transporter must ensure the following:~~

- a) ~~A copy of the USEPA Acknowledgment of Consent accompanies the shipment; and~~
- b) ~~The shipment is delivered to the facility designated by the person initiating the shipment.~~

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

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section 733.161 Off-Site Shipments

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Send the shipment back to the original shipper; or
- 2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
- c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.
- d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or State solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [~~415 ILCS 5~~] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.162 Tracking Universal Waste Shipments

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

SUBPART F: IMPORT REQUIREMENTS

Section 733.170 Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of Subpart H of 35 Ill. Adm. Code 722 and the applicable requirements of this Part immediately after the waste enters the United States, as indicated in subsections (a) through (c) of this Section:

- a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D ~~of this Part~~.
- b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subpart B or C ~~of this Part~~, as applicable.
- c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E ~~of this Part~~.
- d) ~~Persons managing universal waste that is imported from an OECD country as specified in 35 Ill. Adm. Code 722.158(a)(1) are subject to subsections (a) through (c) of this Section, in addition to the requirements of Subpart H of 35 Ill. Adm. Code 722.~~

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

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:
- 1) If USEPA has already added the waste or category of waste to federal 40 CFR 273: by identical-in-substance rulemaking, under Sections 7.2 and 22.4(a) of the Act ~~[415 ILCS 5/7.2 and 22.4(a)]~~, 35 Ill. Adm. Code 101 and 102, and 35 Ill. Adm. Code 720.120; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) If USEPA has not added the waste or category of waste to federal 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act [~~415 ILCS 5/22.4(b) and 27~~], 35 Ill. Adm. Code 101 and 102, this Subpart G, and 35 Ill. Adm. Code 720.120 and 720.123.

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

- b) Petitions for Identical-In-Substance Rulemaking ~~identical in substance rulemaking~~.
 - 1) Any petition for identical-in-substance rulemaking under subsection (a)(1) ~~of this Section~~ must include a copy of the Federal Register notices of adopted amendments in which USEPA promulgated the additions to federal 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register notices.
 - 2) If the petitioner desires expedited Board consideration of the proposed amendments to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.
- c) Petitions for General Rulemaking ~~general rulemaking~~.
 - 1) To be successful using the general rulemaking procedure under subsection (a)(2) ~~of this Section~~, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:
 - A) It would be appropriate for the waste or category of waste;
 - B) It would improve management practices for the waste or category of waste; and
 - C) It would improve implementation of the hazardous waste program.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.
- 3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) of this Section.

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

Section 733.181 Factors for Petitions to Include Other Wastes

- a) Hazardous ~~Waste Listing~~ ~~waste listing~~ or ~~Characteristics~~ ~~characteristics~~. The waste or category of waste, as generated by a wide variety of generators, is listed in Subpart D of 35 Ill. Adm. Code 721, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. (When a characteristic waste is added to the universal waste regulations of this Part by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 35 Ill. Adm. Code 720.110 and Section 733.109 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Part;
- b) Generation by a ~~Wide Variety~~ ~~wide variety~~ of ~~Types~~ ~~types~~ of ~~Facilities~~ ~~facilities~~. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, ~~VSQGs~~ ~~conditionally exempt small quantity generators~~, small businesses, or government organizations, as well as large industrial facilities);
- c) Generation by a ~~Large Number~~ ~~large number~~ of ~~Generators~~ ~~generators~~. The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;
- d) Collection ~~Systems~~ ~~systems~~ to ~~Ensure Close Stewardship~~ ~~ensure close stewardship~~. Systems to be used for collecting the waste or category of waste (including

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

packaging, marking, and labeling practices) would ensure close stewardship of the waste;

- e) Waste Management Standards ~~management standards~~ and Risk ~~risk~~ to Human Health ~~human health~~ and the Environment ~~environment~~. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Sections 733.113, 733.133, and 733.152; or applicable USDOT requirements) would be protective of human health and the environment during accumulation and transport;
- f) Increased Likelihood ~~likelihood~~ of Diversion ~~diversion~~ of Waste ~~waste~~ from Non-Hazardous Waste Management Systems ~~non-hazardous waste management systems~~. Regulation of the waste or category of waste pursuant to this Part will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA (42 USC 6921-6939e);
- g) Improved Implementation ~~implementation~~ of the Hazardous Waste Program ~~hazardous waste program~~. Regulation of the waste or category of waste pursuant to this Part will improve implementation of and compliance with the hazardous waste regulatory program; or
- h) Such other factors as may be appropriate.

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