

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Identification and Listing of Hazardous Waste

2) Code Citation: 35 Ill. Adm. Code 721

3) Section Numbers:                      Proposed Actions:  
721.104                                      Amendment  
721.296                                      Amendment

4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27

5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 721 are a single segment of the docket R19-11 rulemaking that also affects 35 Ill. Adm. Code 703, 720, 722 through 725, 727, 733, and 739. The R19-11 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the second half of 2018: July 1, 2018 through December 31, 2018. A comprehensive description is contained in the Board's opinion and order of February 14, 2019, proposing amendments in docket R19-11, which opinion and order is available from the address below.



R19-11 further includes limited corrections and conforming revisions that the Board finds necessary to previously adopted rules. The Board includes non-substantive stylistic revisions to provisions opened for amendments--many of anticipate changes ordinarily requested by the Joint Committee on Administrative Rules (JCAR).

The following briefly summarizes the federal action in the update periods:

Conditional Exclusion of Airbag Waste from Regulation as Hazardous Waste—November 30, 2018 (83 Fed. Reg. 61552): By an interim final rule immediately effective on publication, USEPA conditionally excluded airbag waste from regulation as hazardous waste by amendments to 40 CFR 260, 261, and 262. The Board incorporates most of these USEPA revisions into corresponding 35 Ill. Adm. Code 720, 721, and 722. USEPA intended to avoid hazardous waste requirements impeding replacement of defective airbags in the Takata recall.

Specifically, the amendments to Part 721 incorporate elements of the federal conditional exclusion of airbag waste. The amendments also conform use of defined terms, correct punctuation and grammar, and simplify phrasing to add clarity to previously adopted rules.

## POLLUTION CONTROL BOARD

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Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-11. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-11.

Sections 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).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-11 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference docket R19-11:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

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Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's website at [pcb.illinois.gov](http://pcb.illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
  - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
  - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
- 14) Small Business Impact Analysis: Sections 1-5(c) and 5-30 of the Administrative Procedure Act [5 ILCS 100/1-5(c) and 5-30 (2018)] provide that small business impact analysis and related requirements under Section 5-30 do not apply to this type of identical-in-substance rulemaking.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

15) Regulatory Agenda on which this rulemaking was summarized: January 2019

The full text of the Proposed Amendments begins on the next page:



1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE G: WASTE DISPOSAL  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS  
5

6 PART 721  
7 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE  
8

9 SUBPART A: GENERAL PROVISIONS  
10

11	Section	
12	721.101	Purpose and Scope
13	721.102	Definition of Solid Waste
14	721.103	Definition of Hazardous Waste
15	721.104	Exclusions
16	721.105	Special Requirements for Hazardous Waste Generated by Small Quantity 17 Generators (Repealed)
18	721.106	Requirements for Recyclable Materials
19	721.107	Residues of Hazardous Waste in Empty Containers
20	721.108	PCB Wastes Regulated under TSCA
21	721.109	Requirements for Universal Waste

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23 SUBPART B: CRITERIA FOR IDENTIFYING THE  
24 CHARACTERISTICS OF HAZARDOUS WASTE  
25 AND FOR LISTING HAZARDOUS WASTES  
26

27	Section	
28	721.110	Criteria for Identifying the Characteristics of Hazardous Waste
29	721.111	Criteria for Listing Hazardous Waste

30  
31 SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE  
32

33	Section	
34	721.120	General
35	721.121	Characteristic of Ignitability
36	721.122	Characteristic of Corrosivity
37	721.123	Characteristic of Reactivity
38	721.124	Toxicity Characteristic

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40 SUBPART D: LISTS OF HAZARDOUS WASTE  
41

42	Section	
43	721.130	General

- 44 721.131 Hazardous Wastes from Nonspecific Sources
- 45 721.132 Hazardous Waste from Specific Sources
- 46 721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container
- 47 Residues, and Spill Residues Thereof
- 48 721.135 Wood Preserving Wastes

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SUBPART E: EXCLUSIONS AND EXEMPTIONS

51

52 Section

- 53 721.138 Exclusion of Comparable Fuel and Syngas Fuel (Repealed)
- 54 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass
- 55 Undergoing Recycling
- 56 721.140 Conditional Exclusion for Used, Intact CRTs Exported for Recycling
- 57 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

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

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62 Section

- 63 721.240 Applicability
- 64 721.241 Definitions of Terms as Used in This Subpart
- 65 721.242 Cost Estimate
- 66 721.243 Financial Assurance Condition
- 67 721.247 Liability Requirements
- 68 721.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
- 69 721.249 Use of State-Required Mechanisms
- 70 721.250 State Assumption of Responsibility
- 71 721.251 Wording of the Instruments

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SUBPART I: USE AND MANAGEMENT OF CONTAINERS

74

75 Section

- 76 721.270 Applicability
- 77 721.271 Condition of Containers
- 78 721.272 Compatibility of Hazardous Secondary Materials with Containers
- 79 721.273 Management of Containers
- 80 721.275 Secondary Containment
- 81 721.276 Special Requirements for Ignitable or Reactive Hazardous Secondary Material
- 82 721.277 Special Requirements for Incompatible Materials
- 83 721.279 Air Emission Standards

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SUBPART J: TANK SYSTEMS

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87	Section	
88	721.290	Applicability
89	721.291	Assessment of Existing Tank System's Integrity
90	721.293	Containment and Detection of Releases
91	721.294	General Operating Requirements
92	721.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank
93		Systems
94	721.297	Termination of Remanufacturing Exclusion
95	721.298	Special Requirements for Ignitable or Reactive Materials
96	721.299	Special Requirements for Incompatible Materials
97	721.300	Air Emission Standards

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

101	Section	
102	721.500	Applicability
103	721.510	Preparedness and Prevention
104	721.511	Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or
105		Less of Hazardous Secondary Material
106	721.520	Contingency Planning and Emergency Procedures for Facilities Generating or
107		Accumulating More Than 6,000 kg of Hazardous Secondary Material

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109                   SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

110		
111	Section	
112	721.930	Applicability
113	721.931	Definitions
114	721.932	Standards: Process Vents
115	721.933	Standards: Closed-Vent Systems and Control Devices
116	721.934	Test Methods and Procedures
117	721.935	Recordkeeping Requirements

118

119                   SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

120		
121	Section	
122	721.950	Applicability
123	721.951	Definitions
124	721.952	Standards: Pumps in Light Liquid Service
125	721.953	Standards: Compressors
126	721.954	Standards: Pressure Relief Devices in Gas/Vapor Service
127	721.955	Standards: Sampling Connection Systems
128	721.956	Standards: Open-Ended Valves or Lines
129	721.957	Standards: Valves in gas/Vapor Service or in Light Liquid Service

130	721.958	Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices
131		in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors
132	721.959	Standards: Delay of Repair
133	721.960	Standards: Closed-Vent Systems and Control Devices
134	721.961	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service:
135		Percentage of Valves Allowed to Leak
136	721.962	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service:
137		Skip Period Leak Detection and Repair
138	721.963	Test Methods and Procedures
139	721.964	Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

143	Section	
144	721.980	Applicability
145	721.981	Definitions
146	721.982	Standards: General
147	721.983	Material Determination Procedures
148	721.984	Standards: Tanks
149	721.986	Standards: Containers
150	721.987	Standards: Closed-Vent Systems and Control Devices
151	721.988	Inspection and Monitoring Requirements
152	721.989	Recordkeeping Requirements
153		
154	721.APPENDIX A	Representative Sampling Methods
155	721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
156		(Repealed)
157	721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
158	721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
159	721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
160	721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
161	721.APPENDIX G	Basis for Listing Hazardous Wastes
162	721.APPENDIX H	Hazardous Constituents
163	721.APPENDIX I	Wastes Excluded by Administrative Action
164	721.TABLE A	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22
165		from Non-Specific Sources
166	721.TABLE B	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22
167		from Specific Sources
168	721.TABLE C	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22
169		from Commercial Chemical Products, Off-Specification Species,
170		Container Residues, and Soil Residues Thereof
171	721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
172	721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and

173 Dibenzofurans (Repealed)  
 174 721.APPENDIX Y Table to Section 721.138: Maximum Contaminant Concentration and  
 175 Minimum Detection Limit Values for Comparable Fuel Specification  
 176 (Repealed)  
 177 721.APPENDIX Z Table to Section 721.102: Recycled Materials that Are Solid Waste  
 178  
 179 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the  
 180 Environmental Protection Act [415 ILCS 5].  
 181  
 182 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
 183 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.  
 184 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12,  
 185 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in  
 186 R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998,  
 187 effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986;  
 188 amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill.  
 189 Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective  
 190 March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in  
 191 R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg.  
 192 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January  
 193 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39  
 194 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective  
 195 December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989;  
 196 amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill.  
 197 Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective  
 198 May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-  
 199 1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155,  
 200 effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992;  
 201 amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.  
 202 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26,  
 203 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-  
 204 16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175,  
 205 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994;  
 206 amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill.  
 207 Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275,  
 208 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998;  
 209 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended  
 210 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at  
 211 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June  
 212 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-  
 213 21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26  
 214 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July  
 215 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at

216 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992,  
217 effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective  
218 December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008;  
219 amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4  
220 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg.  
221 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4,  
222 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39  
223 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective  
224 August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21673, effective  
225 November 19, 2018; amended in R19-3 at 43 Ill. Reg. 496, effective December 6, 2018;  
226 amended in R19-11 at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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228 **SUBPART A: GENERAL PROVISIONS**

229  
230 **Section 721.104 Exclusions**

- 231
- 232 a) **Materials That Are Not Solid Wastes.** The following materials are not solid  
233 wastes for the purpose of this Part:
- 234
- 235 1) **Sewage.**
- 236
- 237 A) Domestic sewage (untreated sanitary wastes that pass through a  
238 sewer system); and
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- 240 B) Any mixture of domestic sewage and other waste that passes  
241 through a sewer system to publicly-owned treatment works for  
242 treatment.
- 243
- 244 2) Industrial wastewater discharges that are point source discharges with  
245 National Pollutant Discharge Elimination System (NPDES) permits issued  
246 by the Agency pursuant to Section 12(f) of the Environmental Protection  
247 Act and 35 Ill. Adm. Code 309.
- 248
- 249 **BOARD NOTE:** This exclusion applies only to the actual point source  
250 discharge. It does not exclude industrial wastewaters while they are being  
251 collected, stored, or treated before discharge, nor does it exclude sludges  
252 that are generated by industrial wastewater treatment.
- 253
- 254 3) Irrigation return flows.
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- 256 4) Source, by-product, or special nuclear material, as defined by section 11 of  
257 the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated  
258 by reference in 35 Ill. Adm. Code 720.111(b).

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- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
  - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
  - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
  - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
  - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
  - A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
  - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
  - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet all of the following conditions:
    - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended

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purpose;

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

10) USEPA hazardous waste numbers K060, K087, K141, K142, K143,



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K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

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

388 oil is oil that has been reclaimed from secondary materials  
 389 (including wastewater) generated from normal petroleum industry  
 390 practices, including refining, exploration and production, bulk  
 391 storage, and transportation incident thereto (SIC codes 1311, 1321,  
 392 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and  
 393 5172). Recovered oil does not include oil-bearing hazardous  
 394 wastes listed in Subpart D; however, oil recovered from such  
 395 wastes may be considered recovered oil. Recovered oil does not  
 396 include used oil, as defined in 35 Ill. Adm. Code 739.100.  
 397

- 398 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap  
 399 metal, and unprocessed prompt scrap metal) being recycled.  
 400
- 401 14) Shredded circuit boards being recycled, provided that they meet the  
 402 following conditions:  
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  - 404 A) The circuit boards are stored in containers sufficient to prevent a  
 405 release to the environment prior to recovery; and  
 406
  - 407 B) The circuit boards are free of mercury switches, mercury relays,  
 408 nickel-cadmium batteries, and lithium batteries.  
 409
- 410 15) Condensates derived from the overhead gases from kraft mill steam  
 411 strippers that are used to comply with federal Clean Air Act regulation 40  
 412 CFR 63.446(e). The exemption applies only to combustion at the mill  
 413 generating the condensates.  
 414
- 415 16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked  
 416 "reserved" by USEPA. This statement maintains structural consistency  
 417 with the federal regulations.  
 418
- 419 17) Spent materials (as defined in Section 721.101) (other than hazardous  
 420 wastes listed in Subpart D) generated within the primary mineral  
 421 processing industry from which minerals, acids, cyanide, water, or other  
 422 values are recovered by mineral processing or by beneficiation, provided  
 423 that the following is true:  
 424
  - 425 A) The spent material is legitimately recycled to recover minerals,  
 426 acids, cyanide, water, or other values;  
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  - 428 B) The spent material is not accumulated speculatively;  
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  - 430 C) Except as provided in subsection (a)(17)(D), the spent material is

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

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

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with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have ~~run-on/run-off~~ and ~~run-off/run-off~~ controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.

- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

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

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

- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:

- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste number D018);
- B) The oil generated by the organic chemical manufacturing facility is

517 not placed on the land, or speculatively accumulated before being  
 518 recycled into the petroleum refining process. An "associated  
 519 organic chemical manufacturing facility" is a facility for which all  
 520 of the following is true: its primary SIC code is 2869, but its  
 521 operations may also include SIC codes 2821, 2822, and 2865; it is  
 522 physically co-located with a petroleum refinery; and the petroleum  
 523 refinery to which the oil being recycled is returned also provides  
 524 hydrocarbon feedstocks to the organic chemical manufacturing  
 525 facility. "Petrochemical recovered oil" is oil that has been  
 526 reclaimed from secondary materials (i.e., sludges, by-products, or  
 527 spent materials, including wastewater) from normal organic  
 528 chemical manufacturing operations, as well as oil recovered from  
 529 organic chemical manufacturing processes.  
 530

531 19) Spent caustic solutions from petroleum refining liquid treating processes  
 532 used as a feedstock to produce cresylic or naphthenic acid, unless the  
 533 material is placed on the land or accumulated speculatively, as defined in  
 534 Section 721.101(c).  
 535

536 20) Hazardous secondary materials used to make zinc fertilizers, provided that  
 537 the following conditions are satisfied:  
 538

539 A) Hazardous secondary materials used to make zinc micronutrient  
 540 fertilizers must not be accumulated speculatively, as defined in  
 541 Section 721.101(c)(8).  
 542

543 B) A generator or intermediate handler of zinc-bearing hazardous  
 544 secondary materials that are to be incorporated into zinc fertilizers  
 545 must fulfill the following conditions:  
 546

547 i) It must submit a one-time notice to the Agency that  
 548 contains the name, address, and USEPA identification  
 549 number of the generator or intermediate handler facility,  
 550 that provides a brief description of the secondary material  
 551 that will be subject to the exclusion, and which identifies  
 552 when the manufacturer intends to begin managing excluded  
 553 zinc-bearing hazardous secondary materials under the  
 554 conditions specified in this subsection (a)(20).  
 555

556 ii) It must store the excluded secondary material in tanks,  
 557 containers, or buildings that are constructed and maintained  
 558 in a way that prevents releases of the secondary materials  
 559 into the environment. At a minimum, any building used for

- 560 this purpose must be an engineered structure made of non-  
 561 earthen materials that provide structural support, and it  
 562 must have a floor, walls, and a roof that prevent wind  
 563 dispersal and contact with rainwater. A tank used for this  
 564 purpose must be structurally sound and, if outdoors, it must  
 565 have a roof or cover that prevents contact with wind and  
 566 rain. A container used for this purpose must be kept  
 567 closed, except when it is necessary to add or remove  
 568 material, and it must be in sound condition. Containers that  
 569 are stored outdoors must be managed within storage areas  
 570 that fulfill the conditions of subsection (a)(20)(F).  
 571
- 572 iii) With each off-site shipment of excluded hazardous  
 573 secondary materials, it must provide written notice to the  
 574 receiving facility that the material is subject to the  
 575 conditions of this subsection (a)(20).  
 576
  - 577 iv) It must maintain records at the generator's or intermediate  
 578 handler's facility for no less than three years of all  
 579 shipments of excluded hazardous secondary materials. For  
 580 each shipment these records must, at a minimum, contain  
 581 the information specified in subsection (a)(20)(G).  
 582
- 583 C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients  
 584 made from excluded hazardous secondary materials must fulfill the  
 585 following conditions:  
 586
- 587 i) It must store excluded hazardous secondary materials in  
 588 accordance with the storage requirements for generators  
 589 and intermediate handlers, as specified in subsection  
 590 (a)(20)(B)(ii).  
 591
  - 592 ii) It must submit a one-time notification to the Agency that, at  
 593 a minimum, specifies the name, address, and USEPA  
 594 identification number of the manufacturing facility and  
 595 which identifies when the manufacturer intends to begin  
 596 managing excluded zinc-bearing hazardous secondary  
 597 materials under the conditions specified in this subsection  
 598 (a)(20).  
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  - 600 iii) It must maintain for a minimum of three years records of  
 601 all shipments of excluded hazardous secondary materials  
 602 received by the manufacturer, which must at a minimum

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identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.

D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.

E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

F) A container used to store excluded secondary material must fulfill the following conditions:

- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
- ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
- iii) It must prevent run-on into the containment system.

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

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

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

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20), provided that the following conditions are fulfilled:

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

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

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

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing

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must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B). Such records must at a minimum include the following:
  - i) The dates and times product samples were taken, and the dates the samples were analyzed;
  - ii) The names and qualifications of the persons taking the samples;
  - iii) A description of the methods and equipment used to take the samples;
  - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
  - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
  - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

22) Used CRTs

- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.

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- B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
  - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
  - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous Secondary Materials Reclaimed under the Control of the Generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with subsections (a)(23)(A) and (a)(23)(B):
- A) Excluded Hazardous Secondary Materials
    - i) The hazardous secondary material is generated and reclaimed at the generating facility. (For purposes of this subsection (a)(23)(A)(i), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);
    - ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:
      - "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."
- or

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

For purposes of this subsection (a)(23)(A)(ii), "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

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

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

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manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process."

The tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For purposes of this subsection (a)(23)(A)(ii), "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

B) Management of Hazardous Secondary Materials

- i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;
- ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);
- iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;

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- iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);
  - v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and
  - vi) The emergency preparedness and response requirements found in Subpart M are met.
- 24) Hazardous Secondary Materials Transferred for Off-Site Reclamation. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G):
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).
  - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
  - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).

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- D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
- E) The hazardous secondary material generator must satisfy each of the following conditions:
  - i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit that leaks or which otherwise continuously releases hazardous secondary material is discarded material and a solid waste.
  - ii) Prior to arranging for transport of hazardous secondary materials to a reclamation facility where the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where the hazardous secondary materials is managed at that facility in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available,

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including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer all of the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility.

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

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

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

BOARD NOTE: The Board combined the documentation, certification, and records retention requirements of

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corresponding 40 CFR 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into subsection (a)(24)(E)(iii) to comply with codification requirements.

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

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

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

- vi) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M.



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

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

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

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

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

iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a

- 1065 confirmation of receipt to the hazardous secondary material  
 1066 generator for each off-site shipment of hazardous  
 1067 secondary materials. A confirmation of receipt must  
 1068 include the name and address of the reclaimer (or  
 1069 intermediate facility), the type and quantity of the  
 1070 hazardous secondary materials received, and the date on  
 1071 which the facility received the hazardous secondary  
 1072 materials. The reclaimer or intermediate facility may  
 1073 satisfy this requirement using routine business records (e.g.,  
 1074 financial records, bills of lading, copies of USDOT  
 1075 shipping papers, or electronic confirmations of receipt).  
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- 1077 iv) The reclaimer or intermediate facility must manage the  
 1078 hazardous secondary material in a manner that is at least as  
 1079 protective of human health and the environment as that  
 1080 employed for analogous raw material, and the material  
 1081 must be contained. An "analogous raw material" is a raw  
 1082 material for which the hazardous secondary material  
 1083 substitutes and that serves the same function and has  
 1084 similar physical and chemical properties as the hazardous  
 1085 secondary material.  
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- 1087 v) A reclaimer of hazardous secondary materials must manage  
 1088 any residuals that are generated from its reclamation  
 1089 processes in a manner that is protective of human health  
 1090 and the environment. If any residuals of the reclamation  
 1091 process exhibit a characteristic of hazardous waste, as  
 1092 defined in Subpart C, or if the residuals themselves are  
 1093 specifically listed as hazardous waste in Subpart D, those  
 1094 residuals are hazardous waste. The reclaimer and any  
 1095 subsequent persons must manage that hazardous waste in  
 1096 accordance with the applicable requirements of 35 Ill.  
 1097 Adm. Code: Subtitle G or similar regulations authorized by  
 1098 USEPA as equivalent to 40 CFR 260 through 272.  
 1099
- 1100 vi) The reclaimer and intermediate facility must have financial  
 1101 assurance that satisfies the requirements of Subpart H.  
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- 1103 G) In addition, any person claiming the exclusion for recycled  
 1104 hazardous secondary material pursuant to this subsection (a)(24)  
 1105 must provide notification as required by 35 Ill. Adm. Code  
 1106 720.142.  
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- H) For the purposes of the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:
- i) Does the available information indicate that the reclamation process is legitimate pursuant to 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.
  - ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or the Agency whether the reclaimer or intermediate facility has financial assurance.
  - iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information from USEPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement

1151 action taken against the facility in the previous three years  
1152 for violations of the RCRA hazardous waste regulations  
1153 and has been classified as a significant non-complier with  
1154 RCRA Subtitle C, does the hazardous secondary material  
1155 generator have credible evidence that the facility will  
1156 manage the hazardous secondary materials properly? In  
1157 answering this question, the hazardous secondary material  
1158 generator can obtain additional information from USEPA,  
1159 the state, or the facility itself that the facility has addressed  
1160 the violations, taken remedial steps to address the  
1161 violations and prevent future violations, or that the  
1162 violations are not relevant to the proper management of the  
1163 hazardous secondary materials.

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1165 iv) Does the available information indicate that the reclamation  
1166 facility and any intermediate facility that is used by the  
1167 hazardous secondary material generator have the equipment  
1168 and trained personnel to safely recycle the hazardous  
1169 secondary material? In answering this question, the  
1170 generator may rely on a description by the reclamation  
1171 facility or by an independent third party of the equipment  
1172 and trained personnel to be used to recycle the generator's  
1173 hazardous secondary material.

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1175 v) If residuals are generated from the reclamation of the  
1176 excluded hazardous secondary materials, does the  
1177 reclamation facility have the permits required (if any) to  
1178 manage the residuals? If not, does the reclamation facility  
1179 have a contract with an appropriately permitted facility to  
1180 dispose of the residuals? If not, does the hazardous  
1181 secondary material generator have credible evidence that  
1182 the residuals will be managed in a manner that is protective  
1183 of human health and the environment? In answering these  
1184 questions, the hazardous secondary material generator can  
1185 rely on publicly available information from USEPA or the  
1186 state, or information provided by the facility itself.

1187  
1188 BOARD NOTE: The Board moved the required generator  
1189 inquiries into a reclamation or intermediate facility of 40 CFR  
1190 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to  
1191 this subsection (a)(24)(H) to comply with codification  
1192 requirements.  
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- 25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) and (a)(24)(H) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:
- A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:
    - i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
    - ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;
    - iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
    - iv) The estimated total quantity of hazardous secondary material;
    - v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;

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- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.), etc.);
  - vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
  - viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
  - ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this Section, the terms "USEPA Acknowledgement of Consent", "country of import", and "country of transit" are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).
- B) The generator must submit notifications electronically using USEPA's Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number required in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv), when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit pursuant to subsection (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA a USEPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

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- D) Upon request by USEPA, the hazardous secondary material generator shall furnish to USEPA any additional information that a country of import requests in order to respond to a notification.
  - E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(25)(A). When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in accordance with 35 Ill. Adm. Code 720.102.
  - F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, USEPA will send an USEPA Acknowledgment of Consent to the hazardous secondary material generator. When the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.
  - G) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.
  - H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.

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- I) If the shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another USEPA Acknowledgment of Consent.
  
- J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if it can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.
  
- K) Hazardous secondary material generators must file with USEPA, no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:
  - i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;
  - ii) The calendar year covered by the report;
  - iii) The name and site address of each reclaimer and intermediate facility;
  - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste



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number that would apply if the hazardous secondary material were managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (if applicable) for each transporter used, the total amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification; and

- v) A certification signed by the hazardous secondary material generator that states as follows:

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

- L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:

- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

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- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
  - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
  - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
  - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
- F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.

27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that the following conditions are fulfilled:

BOARD NOTE: The North American Industrial Classification System (NAICS) codes used in this subsection (a)(27) are defined in the NAICS

- 1451 Manual, available from the Office of Management and Budget and  
 1452 incorporated by reference in 35 Ill. Adm. Code 720.111.  
 1453  
 1454 A) The hazardous secondary material consists of one or more of the  
 1455 following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-  
 1456 trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl  
 1457 tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloro-  
 1458 methane, methyl isobutyl ketone, N,N-dimethylformamide, tetra-  
 1459 hydrofuran, n-butyl alcohol, ethanol, or methanol.  
 1460  
 1461 B) The hazardous secondary material originated from using one or  
 1462 more of the solvents listed in subsection (a)(27)(A) in a  
 1463 commercial grade for reacting, extracting, purifying, or blending  
 1464 chemicals (or for rinsing out the process lines associated with these  
 1465 functions) in the pharmaceutical manufacturing (NAICS 325412),  
 1466 basic organic chemical manufacturing (NAICS 325199), plastics  
 1467 and resins manufacturing (NAICS 325211), or the paints and  
 1468 coatings manufacturing sectors (NAICS 325510).  
 1469  
 1470 C) The hazardous secondary material generator sends the hazardous  
 1471 secondary material spent solvents listed in subsection (a)(27)(A) to  
 1472 a remanufacturer in the pharmaceutical manufacturing (NAICS  
 1473 325412), basic organic chemical manufacturing (NAICS 325199),  
 1474 plastics and resins manufacturing (NAICS 325211), or the paints  
 1475 and coatings manufacturing sectors (NAICS 325510).  
 1476  
 1477 D) After remanufacturing one or more of the solvents listed in  
 1478 subsection (a)(27)(A), the use of the remanufactured solvent must  
 1479 be limited to reacting, extracting, purifying, or blending chemicals  
 1480 (or for rinsing out the process lines associated with these functions)  
 1481 in the pharmaceutical manufacturing (NAICS 325412), basic  
 1482 organic chemical manufacturing (NAICS 325199), plastics and  
 1483 resins manufacturing (NAICS 325211), and the paints and coatings  
 1484 manufacturing sectors (NAICS 325510) or to using them as  
 1485 ingredients in a product. These allowed uses correspond to  
 1486 chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C)  
 1487 (Reporting Information to EPA), incorporated by reference in 35  
 1488 Ill. Adm. Code 720.111, including Industrial Function Category  
 1489 Codes U015 (solvents consumed in a reaction to produce other  
 1490 chemicals) and U030 (solvents that become part of the mixture).  
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 1492 BOARD NOTE: The Board observes that the citation to Toxic  
 1493 Substances Control Act function categories and use of the word

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"including" to preface specific example Industrial Function Category Codes does not expand the range of permissible uses beyond the express limitations recited in the first segment of this subsection (a)(27)(D) and subsection (a)(27)(E).

- E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.
  
- F) Both the hazardous secondary material generator and the remanufacturer must fulfill the following requirements:
  - i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;
  
  - ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);  
  
BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.
  
  - iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;
  
  - iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
  
  - v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous

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secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage); and

vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).

G) The following information items are required elements for a remanufacturing plan.

i) The name, address and USEPA ID number of the generators and the remanufacturers;

ii) The types and estimated annual volumes of spent solvents to be remanufactured;

iii) The processes and industry sectors that generate the spent solvents;

iv) The specific uses and industry sectors for the remanufactured solvents; and

v) A certification from the remanufacturer stating as follows: "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as

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product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR 60, 61 or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage)."

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

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

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

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

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and chemical solutions used to clean the fire-side and waterside of the boiler.

- iii) Boiler Blowdown. For purposes of this subsection (b)(4), "boiler blowdown" means water purged from boilers used to generate steam.
  - iv) Process Water Treatment and Demineralizer Regeneration Wastes. For purposes of this subsection (b)(4), "process water treatment and demineralizer regeneration wastes" means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
  - v) Cooling Tower Blowdown. For purposes of this subsection (b)(4), "cooling tower blowdown" means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.
  - vi) Air Heater and Precipitator Washes. For purposes of this subsection (b)(4), "air heater and precipitator washes" means wastes from cleaning air preheaters and electrostatic precipitators.
  - vii) Effluents from Floor and Yard Drains and Sumps. For purposes of this subsection (b)(4), "effluents from floor and yard drains and sumps" means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain ~~run-off~~ runoff, collected by yard drains and sumps located outside the power plant building.
  - viii) Wastewater Treatment Sludges. For purposes of this subsection (b)(4), "wastewater treatment sludges" refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.



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6) Chromium Wastes

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

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- iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
  - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
  - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
  - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
  - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

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- B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
  - ii) Slag from primary lead processing;
  - iii) Red and brown muds from bauxite refining;
  - iv) Phosphogypsum from phosphoric acid production;
  - v) Slag from elemental phosphorus production;
  - vi) Gasifier ash from coal gasification;
  - vii) Process wastewater from coal gasification;
  - viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
  - ix) Slag tailings from primary copper processing;
  - x) Fluorogypsum from hydrofluoric acid production;
  - xi) Process wastewater from hydrofluoric acid production;
  - xii) Air pollution control dust or sludge from iron blast furnaces;
  - xiii) Iron blast furnace slag;
  - xiv) Treated residue from roasting and leaching of chrome ore;
  - xv) Process wastewater from primary magnesium processing by the anhydrous process;
  - xvi) Process wastewater from phosphoric acid production;
  - xvii) Basic oxygen furnace and open-hearth furnace air pollution control dust or sludge from carbon steel production;
  - xviii) Basic oxygen furnace and open-hearth furnace slag from

- 1838 carbon steel production;  
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 1840 xix) Chloride processing waste solids from titanium  
 1841 tetrachloride production; and  
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 1843 xx) Slag from primary zinc production.  
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 1845 C) A residue derived from co-processing mineral processing  
 1846 secondary materials with normal beneficiation raw materials or  
 1847 with normal mineral processing raw materials remains excluded  
 1848 under this subsection (b) if the following conditions are fulfilled:  
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 1850 i) The owner or operator processes at least 50 percent by  
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 1854 ii) The owner or operator legitimately reclaims the secondary  
 1855 mineral processing materials.  
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 1857 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212  
 1858 for facilities that burn or process hazardous waste.  
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 1860 9) Solid waste that consists of discarded arsenical-treated wood or wood  
 1861 products that fails the test for the toxicity characteristic for USEPA  
 1862 hazardous waste numbers D004 through D017 and which is not a  
 1863 hazardous waste for any other reason if the waste is generated by persons  
 1864 that utilize the arsenical-treated wood and wood products for these  
 1865 materials' intended end use.  
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 1867 10) Petroleum-contaminated media and debris that fail the test for the toxicity  
 1868 characteristic of Section 721.124 (USEPA hazardous waste numbers D018  
 1869 through D043 only) and which are subject to corrective action regulations  
 1870 under 35 Ill. Adm. Code 731.  
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 1872 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which  
 1873 expired by its own terms on January 25, 1993. This statement maintains  
 1874 structural parity with USEPA regulations.  
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 1876 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer  
 1877 equipment, including mobile air conditioning systems, mobile  
 1878 refrigeration, and commercial and industrial air conditioning and  
 1879 refrigeration systems, that use chlorofluorocarbons as the heat transfer  
 1880 fluid in a refrigeration cycle, provided the refrigerant is reclaimed for

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further use.

13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

- A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
- B) Hot-draining and crushing;
- C) Dismantling and hot-draining; or
- D) Any other equivalent hot-draining method that will remove used oil.

14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:

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

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

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ii) The solid wastes described in subsection (b)(15)(A)(i) were disposed of prior to the effective date of the listing (as set forth in that subsection);

iii) The leachate or gas condensate does not exhibit any

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characteristic of hazardous waste nor is derived from any other listed hazardous waste; and

iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).

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

16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.

17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.

18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:

A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is

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- being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
- i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
  - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
  - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or

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- ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
  - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
  - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples
- 1) Except as provided in subsections (d)(2) and (d)(4), a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
    - A) The sample is being transported to a laboratory for the purpose of testing;
    - B) The sample is being transported back to the sample collector after testing;



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- C) The sample is being stored by the sample collector before transport to a laboratory for testing;
  - D) The sample is being stored in a laboratory before testing;
  - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
  - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
- A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
  - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
    - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
    - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- 3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).
- 4) In order to qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

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e) Treatability Study Samples

- 1) Except as is provided in subsections (e)(2) and (e)(4), a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of RCRA (42 USC 6930). Nor are such samples included in the quantity determinations of 35 Ill. Adm. Code 722.114 and 722.116 when:
  - A) The sample is being collected and prepared for transportation by the generator or sample collector;
  - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
  - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
  - A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
  - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
  - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) are met.
    - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping

- 2131 requirements; or  
 2132  
 2133 ii) If the USDOT, USPS, or other shipping requirements do  
 2134 not apply to the shipment of the sample, the following  
 2135 information must accompany the sample: The name,  
 2136 mailing address, and telephone number of the originator of  
 2137 the sample; the name, address, and telephone number of the  
 2138 facility that will perform the treatability study; the quantity  
 2139 of the sample; the date of the shipment; and, a description  
 2140 of the sample, including its USEPA hazardous waste  
 2141 number;  
 2142  
 2143 D) The sample is shipped to a laboratory or testing facility that is  
 2144 exempt under subsection (f), or has an appropriate RCRA permit  
 2145 or interim status;  
 2146  
 2147 E) The generator or sample collector maintains the following records  
 2148 for a period ending three years after completion of the treatability  
 2149 study:  
 2150  
 2151 i) Copies of the shipping documents;  
 2152  
 2153 ii) A copy of the contract with the facility conducting the  
 2154 treatability study; and  
 2155  
 2156 iii) Documentation showing the following: The amount of  
 2157 waste shipped under this exemption; the name, address, and  
 2158 USEPA identification number of the laboratory or testing  
 2159 facility that received the waste; the date the shipment was  
 2160 made; and whether or not unused samples and residues  
 2161 were returned to the generator; and  
 2162  
 2163 F) The generator reports the information required in subsection  
 2164 (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.  
 2165  
 2166 3) The Agency may grant requests on a case-by-case basis for up to an  
 2167 additional two years for treatability studies involving bioremediation. The  
 2168 Agency may grant requests, on a case-by-case basis, for quantity limits in  
 2169 excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for  
 2170 up to an additional 5,000 kg of media contaminated with non-acute  
 2171 hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media  
 2172 contaminated with acute hazardous waste, and 1 kg of acute hazardous  
 2173 waste under the circumstances set forth in either subsection (e)(3)(A) or

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(e)(3)(B), subject to the limitations of subsection (e)(3)(C):

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

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specifications that will be evaluated and the expected results;

iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

v) Such other information as the Agency determines is necessary.

4) In order to qualify for the exemption in subsection (e)(1)(A), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

5) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.

f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).

2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.

3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is

- 2260 subject to initiation of treatment in all treatability studies in any single  
2261 day. "As received" waste refers to the waste as received in the shipment  
2262 from the generator or sample collector.  
2263
- 2264 4) The quantity of "as received" hazardous waste stored at the facility for the  
2265 purpose of evaluation in treatability studies does not exceed 10,000 kg, the  
2266 total of which can include 10,000 kg of media contaminated with non-  
2267 acute hazardous waste, 2,500 kg of media contaminated with acute  
2268 hazardous waste, 1,000 kg of non-acute hazardous wastes other than  
2269 contaminated media, and 1 kg of acute hazardous waste. This quantity  
2270 limitation does not include treatment materials (including non-hazardous  
2271 solid waste) added to "as received" hazardous waste.  
2272
- 2273 5) No more than 90 days have elapsed since the treatability study for the  
2274 sample was completed, or no more than one year (two years for  
2275 treatability studies involving bioremediation) has elapsed since the  
2276 generator or sample collector shipped the sample to the laboratory or  
2277 testing facility, whichever date first occurs. Up to 500 kg of treated  
2278 material from a particular waste stream from treatability studies may be  
2279 archived for future evaluation up to five years from the date of initial  
2280 receipt. Quantities of materials archived are counted against the total  
2281 storage limit for the facility.  
2282
- 2283 6) The treatability study does not involve the placement of hazardous waste  
2284 on the land or open burning of hazardous waste.  
2285
- 2286 7) The facility maintains records for three years following completion of  
2287 each study that show compliance with the treatment rate limits and the  
2288 storage time and quantity limits. The following specific information must  
2289 be included for each treatability study conducted:  
2290
- 2291 A) The name, address, and USEPA identification number of the  
2292 generator or sample collector of each waste sample;  
2293
- 2294 B) The date the shipment was received;  
2295
- 2296 C) The quantity of waste accepted;  
2297
- 2298 D) The quantity of "as received" waste in storage each day;  
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- 2300 E) The date the treatment study was initiated and the amount of "as  
2301 received" waste introduced to treatment each day;  
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- 2303 F) The date the treatability study was concluded;  
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 2305 G) The date any unused sample or residues generated from the  
 2306 treatability study were returned to the generator or sample collector  
 2307 or, if sent to a designated facility, the name of the facility and the  
 2308 USEPA identification number.  
 2309  
 2310 8) The facility keeps, on-site, a copy of the treatability study contract and all  
 2311 shipping papers associated with the transport of treatability study samples  
 2312 to and from the facility for a period ending three years from the  
 2313 completion date of each treatability study.  
 2314  
 2315 9) The facility prepares and submits a report to the Agency, by March 15 of  
 2316 each year, that includes the following information for the previous  
 2317 calendar year:  
 2318  
 2319 A) The name, address, and USEPA identification number of the  
 2320 facility conducting the treatability studies;  
 2321  
 2322 B) The types (by process) of treatability studies conducted;  
 2323  
 2324 C) The names and addresses of persons for whom studies have been  
 2325 conducted (including their USEPA identification numbers);  
 2326  
 2327 D) The total quantity of waste in storage each day;  
 2328  
 2329 E) The quantity and types of waste subjected to treatability studies;  
 2330  
 2331 F) When each treatability study was conducted; and  
 2332  
 2333 G) The final disposition of residues and unused sample from each  
 2334 treatability study.  
 2335  
 2336 10) The facility determines whether any unused sample or residues generated  
 2337 by the treatability study are hazardous waste under Section 721.103 and, if  
 2338 so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless  
 2339 the residues and unused samples are returned to the sample originator  
 2340 under the exemption of subsection (e).  
 2341  
 2342 11) The facility notifies the Agency by letter when the facility is no longer  
 2343 planning to conduct any treatability studies at the site.  
 2344  
 2345 g) Dredged Material That Is Not a Hazardous Waste. Dredged material that is

2346 subject to the requirements of a permit that has been issued under section 404 of  
2347 the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste.  
2348 For the purposes of this subsection (g), the following definitions apply:  
2349

2350 "Dredged material" has the meaning ascribed it in 40 CFR 232.2  
2351 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).  
2352

2353 "Permit" means any of the following:  
2354

2355 A permit issued by the U.S. Army Corps of Engineers (Army  
2356 Corps) under section 404 of the Federal Water Pollution Control  
2357 Act (33 USC 1344);  
2358

2359 A permit issued by the Army Corps under section 103 of the  
2360 Marine Protection, Research, and Sanctuaries Act of 1972 (33  
2361 USC 1413); or  
2362

2363 In the case of Army Corps civil works projects, the administrative  
2364 equivalent of the permits referred to in the preceding two  
2365 paragraphs of this definition, as provided for in Army Corps  
2366 regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).  
2367

2368 h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide  
2369 streams that are captured and transported for purposes of injection into an  
2370 underground injection well subject to the requirements for Class VI carbon  
2371 sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704  
2372 and 730, are not a hazardous waste, provided the following conditions are met:  
2373

2374 1) Transportation of the carbon dioxide stream must be in compliance with  
2375 U.S. Department of Transportation requirements, including the pipeline  
2376 safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by  
2377 reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190  
2378 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of  
2379 the U.S. Department of Transportation, and pipeline safety regulations  
2380 adopted and administered by a state authority pursuant to a certification  
2381 under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code  
2382 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill.  
2383 Adm. Code 720.111, as applicable;  
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2385 BOARD NOTE: The parenthetical language relating to pipeline  
2386 transportation does not preclude transportation by air, water, highway, or  
2387 rail that complies with U.S. Department of Transportation regulations at



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- i) An airbag waste collection facility in the United States that is under the control of a vehicle manufacturer or its authorized representative or which is under the control of a person authorized to administer a remedy program in response to a vehicle safety recall under 49 USC 30120; or
  - ii) A designated facility, as defined in 35 Ill. Adm. Code 720.110;
- D) The transport of the airbag waste complies with all applicable USDOT regulations in 49 CFR 171 through 180 during transit; and
- E) The airbag waste handler maintains at the handler facility, for no less than three years, records of each off-site shipment of airbag waste and each confirmation of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter, the date of the shipment, the name and address of the receiving facility, and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. A confirmation of receipt must include the name and address of the receiving facility, the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date when the airbag waste collection facility received the airbag waste. The airbag waste handler must make shipping records and confirmations of receipt available for inspection and may satisfy this requirement using routine business records (e.g., electronic or paper financial records, bills of lading, copies of USDOT shipping papers, electronic confirmations of receipt, etc.).
- 2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations. The facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of 35 Ill. Adm. Code 722.
- 3) Reuse in vehicles of defective airbag modules or defective airbag inflators that are subject to a recall under 49 USC 30120 is considered sham recycling and prohibited under 35 Ill. Adm. Code 721.102(g).
- BOARD NOTE: This precludes any possibility that reuse qualifies for recycling-based exclusion from the definition of solid waste. Federal law

2516 prohibits selling defective recalled motor vehicle equipment if it may  
2517 reasonably be used for its original purpose (see 42 USC 30120(j)).  
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2519 (Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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2521 SUBPART J: TANK SYSTEMS  
2522

2523 **Section 721.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use**  
2524 **Tank Systems**  
2525

2526 A tank system or secondary containment system from which there has been a leak or spill, or that  
2527 is unfit for use, must be removed from service immediately, and the remanufacturer or other  
2528 person that stores or treats the hazardous secondary material must satisfy the following  
2529 requirements:  
2530

2531 a) Cessation of use; prevent flow or addition of materials. The remanufacturer or  
2532 other person that stores or treats the hazardous secondary material must  
2533 immediately stop the flow of hazardous secondary material into the tank system  
2534 or secondary containment system and inspect the system to determine the cause of  
2535 the release.  
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2537 b) Removal of material from tank system or secondary containment system.  
2538

2539 1) If the release was from the tank system, the remanufacturer or other  
2540 person that stores or treats the hazardous secondary material must, within  
2541 24 hours after detection of the leak or, if the remanufacturer or other  
2542 person that stores or treats the hazardous secondary material demonstrates  
2543 that it is not possible, at the earliest practicable time, remove as much of  
2544 the material as is necessary to prevent further release of hazardous  
2545 secondary material to the environment and to allow inspection and repair  
2546 of the tank system to be performed.  
2547

2548 2) If the material released was to a secondary containment system, all  
2549 released materials must be removed within 24 hours or in as timely a  
2550 manner as is possible to prevent harm to human health and the  
2551 environment.  
2552

2553 c) Containment of visible releases to the environment. The remanufacturer or other  
2554 person that stores or treats the hazardous secondary material must immediately  
2555 conduct a visual inspection of the release and, based upon that inspection:  
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2557 1) The remanufacturer must prevent further migration of the leak or spill to  
2558 soils or surface water; and

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- 2) The remanufacturer must remove, and properly dispose of, any visible contamination of the soil or surface water.
- d) Notifications, reports.
  - 1) Any release to the environment, except as provided in subsection (d)(2), must be reported to the Agency and the Administrator of USEPA Region 5 within 24 hours of its detection. If the release has been reported pursuant to 40 CFR 302, that report will satisfy the requirement to notify USEPA, but the release must still be reported to the Agency.
  - 2) A leak or spill of hazardous secondary material is exempted from the requirements of this subsection (d) if the following is true of the leak or spill:
    - A) The leak or spill is less than or equal to a quantity of one pound; and
    - B) The leak or spill is immediately contained and cleaned up.
  - 3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency and the Administrator of USEPA Region 5:
    - A) The likely route of migration of the release;
    - B) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);
    - C) The results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency and the Administrator of USEPA Region 5 as soon as the results become available;
    - D) The proximity to downgradient drinking water, surface water, and populated areas; and
    - E) A description of response actions taken or planned.
- e) Provision of secondary containment, repair, or closure.

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- 1) Unless the remanufacturer or other person that stores or treats the hazardous secondary material satisfies the requirements of subsections (e)(2) through (e)(4), the tank system must cease to operate under the remanufacturing exclusion at Section 721.104(a)(27).
  - 2) If the cause of the release was a spill that has not damaged the integrity of the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material may return the tank system to service as soon as the released material is removed and repairs, if necessary, are made.
  - 3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the primary tank system must be repaired prior to returning the tank system to service.
  - 4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the remanufacturer or other person that stores or treats the hazardous secondary material must provide the component of the tank system from which the leak occurred with secondary containment that satisfies the requirements of Section 721.293 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or on-ground ~~inground~~ tank), the entire component must be provided with secondary containment in accordance with Section 721.193 prior to being returned to use.
- f) Certification of major repairs. If the remanufacturer or other person that stores or treats the hazardous secondary material has repaired a tank system in accordance with subsection (e), and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel, etc.), the tank system must not be returned to service, unless the remanufacturer or other person that stores or treats the hazardous secondary material has obtained a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous secondary materials without release for the intended life of the system. This certification must be kept on file at the facility and maintained until closure of the facility.

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BOARD NOTE: USEPA stated in note 1 appended to corresponding 40 CFR 261.196 that the Regional Administrator may, on the basis of any information received that there is or has been a release of hazardous secondary material or hazardous constituents into the environment, issue an order under RCRA section 7003(a) (42 USC 6973(a)) requiring corrective action or such other response as deemed necessary to protect human health or the environment. USEPA stated in note 2 appended to corresponding 40 CFR 261.196 that 40 CFR 302 may require the owner or operator to notify the National Response Center of certain releases.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 721  
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section

- 721.101 Purpose and Scope
- 721.102 Definition of Solid Waste
- 721.103 Definition of Hazardous Waste
- 721.104 Exclusions
- 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators (Repealed)
- 721.106 Requirements for Recyclable Materials
- 721.107 Residues of Hazardous Waste in Empty Containers
- 721.108 PCB Wastes Regulated under TSCA
- 721.109 Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE  
CHARACTERISTICS OF HAZARDOUS WASTE  
AND FOR LISTING HAZARDOUS WASTES

Section

- 721.110 Criteria for Identifying the Characteristics of Hazardous Waste
- 721.111 Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section

- 721.120 General
- 721.121 Characteristic of Ignitability
- 721.122 Characteristic of Corrosivity
- 721.123 Characteristic of Reactivity
- 721.124 Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

Section

- 721.130 General
- 721.131 Hazardous Wastes from Nonspecific Sources
- 721.132 Hazardous Waste from Specific Sources
- 721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
- 721.135 Wood Preserving Wastes

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section

- 721.138 Exclusion of Comparable Fuel and Syngas Fuel (Repealed)
- 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling
- 721.140 Conditional Exclusion for Used, Intact CRTs Exported for Recycling
- 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

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

Section

- 721.240 Applicability
- 721.241 Definitions of Terms as Used in This Subpart
- 721.242 Cost Estimate
- 721.243 Financial Assurance Condition
- 721.247 Liability Requirements
- 721.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
- 721.249 Use of State-Required Mechanisms
- 721.250 State Assumption of Responsibility
- 721.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

- 721.270 Applicability
- 721.271 Condition of Containers
- 721.272 Compatibility of Hazardous Secondary Materials with Containers
- 721.273 Management of Containers
- 721.275 Secondary Containment
- 721.276 Special Requirements for Ignitable or Reactive Hazardous Secondary Material
- 721.277 Special Requirements for Incompatible Materials
- 721.279 Air Emission Standards

SUBPART J: TANK SYSTEMS

Section

- 721.290 Applicability
- 721.291 Assessment of Existing Tank System's Integrity
- 721.293 Containment and Detection of Releases
- 721.294 General Operating Requirements
- 721.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
- 721.297 Termination of Remanufacturing Exclusion
- 721.298 Special Requirements for Ignitable or Reactive Materials
- 721.299 Special Requirements for Incompatible Materials
- 721.300 Air Emission Standards

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

Section

- 721.500 Applicability
- 721.510 Preparedness and Prevention
- 721.511 Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or Less of Hazardous Secondary Material
- 721.520 Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section

- 721.930 Applicability
- 721.931 Definitions
- 721.932 Standards: Process Vents
- 721.933 Standards: Closed-Vent Systems and Control Devices
- 721.934 Test Methods and Procedures
- 721.935 Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section

- 721.950 Applicability
- 721.951 Definitions
- 721.952 Standards: Pumps in Light Liquid Service
- 721.953 Standards: Compressors
- 721.954 Standards: Pressure Relief Devices in Gas/Vapor Service
- 721.955 Standards: Sampling Connection Systems
- 721.956 Standards: Open-Ended Valves or Lines
- 721.957 Standards: Valves in gas/Vapor Service or in Light Liquid Service
- 721.958 Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors
- 721.959 Standards: Delay of Repair
- 721.960 Standards: Closed-Vent Systems and Control Devices
- 721.961 Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak
- 721.962 Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair
- 721.963 Test Methods and Procedures
- 721.964 Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

Section

- 721.980 Applicability
- 721.981 Definitions
- 721.982 Standards: General
- 721.983 Material Determination Procedures



721.984 Standards: Tanks  
 721.986 Standards: Containers  
 721.987 Standards: Closed-Vent Systems and Control Devices  
 721.988 Inspection and Monitoring Requirements  
 721.989 Recordkeeping Requirements  
  
 721.APPENDIX A Representative Sampling Methods  
 721.APPENDIX B Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)  
 721.APPENDIX C Chemical Analysis Test Methods (Repealed)  
 721.TABLE A Analytical Characteristics of Organic Chemicals (Repealed)  
 721.TABLE B Analytical Characteristics of Inorganic Species (Repealed)  
 721.TABLE C Sample Preparation/Sample Introduction Techniques (Repealed)  
 721.APPENDIX G Basis for Listing Hazardous Wastes  
 721.APPENDIX H Hazardous Constituents  
 721.APPENDIX I Wastes Excluded by Administrative Action  
 721.TABLE A Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Non-Specific Sources  
 721.TABLE B Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources  
 721.TABLE C Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof  
 721.TABLE D Wastes Excluded by the Board by Adjusted Standard  
 721.APPENDIX J Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)  
 721.APPENDIX Y Table to Section 721.138: Maximum Contaminant Concentration and Minimum Detection Limit Values for Comparable Fuel Specification (Repealed)  
 721.APPENDIX Z Table to Section 721.102: Recycled Materials that Are Solid Waste

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

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

effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21673, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 496, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

##### Section 721.104 Exclusions

a) Materials That Are Not Solid Wastes. The following materials are not solid wastes for the purpose of this Part:

- 1) Sewage.

- A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
  - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
- 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.
- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
  - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
  - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
  - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.

9) Wood preserving wastes.

A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;

B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and

C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet all of the following conditions:

i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;

ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act.

10) USEPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

11) Nonwastewater splash condenser dross residue from the treatment of USEPA hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:

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

B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A). Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.

13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

14) Shredded circuit boards being recycled, provided that they meet the following conditions:

A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and

B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.

17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:

A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

B) The spent material is not accumulated speculatively;

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

D) The Agency must allow by permit in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.

i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have run-on ~~runon~~ and run-off ~~runoff~~ controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.

iii) Before making a determination under this subsection (a) (17) (D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

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

E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

F) For purposes of subsection (b) (7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:

A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste number D018);

B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).

20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:

A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c) (8).

B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:

i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a) (20).

ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered



structure made of non-earth materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F).

iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).

iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).

C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:

i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii).

ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.

D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.

E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

F) A container used to store excluded secondary material must fulfill the following conditions:

i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;

ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and

iii) It must prevent run-on into the containment system.

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

G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:

i) The name of the transporter and date of the shipment;

ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and

iii) The type and quantity of excluded secondary material in each shipment.

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

21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20), provided that the following conditions are fulfilled:

A) The fertilizers meet the following contaminant limits:

i) For metal contaminants:

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

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

B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a) (21) (B). Such records must at a minimum include the following:

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

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

iii) A description of the methods and equipment used to take the samples;

iv) The name and address of the laboratory facility at which analyses of the samples were performed;

v) A description of the analytical methods used, including any cleanup and sample preparation methods; and

vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a) (21).

22) Used CRTs

A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c) (8), by a CRT collector or glass processor.

B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.

C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.

D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).

23) Hazardous Secondary Materials Reclaimed under the Control of the Generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with subsections (a)(23)(A) and (a)(23)(B):

A) Excluded Hazardous Secondary Materials

i) The hazardous secondary material is generated and reclaimed at the generating facility. (For purposes of this subsection (a)(23)(A)(i), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);

ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:

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

or

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

For purposes of this subsection (a)(23)(A)(ii), "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material

shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

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

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

The tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For purposes of this subsection (a) (23) (A) (ii), "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

#### B) Management of Hazardous Secondary Materials

i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;

ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c) (8);

iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;

iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);

v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and

vi) The emergency preparedness and response requirements found in Subpart M are met.

24) Hazardous Secondary Materials Transferred for Off-Site Reclamation. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G):

A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).

B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.

C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).

D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.

E) The hazardous secondary material generator must satisfy each of the following conditions:

i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately

recovered for the purpose of recycling. Hazardous secondary material managed in a unit that leaks or which otherwise continuously releases hazardous secondary material is discarded material and a solid waste.

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

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

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

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

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

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

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

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

vi) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M.

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



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

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

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

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

iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).

iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.

v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C, or if the residuals themselves are specifically listed as hazardous waste in Subpart D, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.

vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H.

G) In addition, any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.

H) For the purposes of the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:

i) Does the available information indicate that the reclamation process is legitimate pursuant to 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.

ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or the Agency whether the reclaimer or intermediate facility has financial assurance.

iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the

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

iv) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from USEPA or the state, or information provided by the facility itself.

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

25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) and (a)(24)(H) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:

A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days

before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:

- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
  - ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;
  - iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
  - iv) The estimated total quantity of hazardous secondary material;
  - v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
  - vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.), etc.);
  - vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
  - viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
  - ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this Section, the terms "USEPA Acknowledgement of Consent", "country of import", and "country of transit" are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).
- B) The generator must submit notifications electronically using USEPA's Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number required in subsection (a) (25) (A) (i) and decreases in the quantity of hazardous secondary

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

D) Upon request by USEPA, the hazardous secondary material generator shall furnish to USEPA any additional information that a country of import requests in order to respond to a notification.

E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(25)(A). When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in accordance with 35 Ill. Adm. Code 720.102.

F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, USEPA will send an USEPA Acknowledgment of Consent to the hazardous secondary material generator. When the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.

G) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.

H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.

I) If the shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another USEPA Acknowledgment of Consent.

J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if it can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.

K) Hazardous secondary material generators must file with USEPA, no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:

i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;

ii) The calendar year covered by the report;

iii) The name and site address of each reclaimer and intermediate facility;

iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (if applicable) for each transporter used, the total amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification; and

v) A certification signed by the hazardous secondary material generator that states as follows:

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

L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:

A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;

D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

E) Generators must maintain at their site the following documentation:

i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and

iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and

F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.

27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that the following conditions are fulfilled:

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

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

B) The hazardous secondary material originated from using one or more of the solvents listed in subsection (a) (27) (A) in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).

C) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in subsection (a) (27) (A) to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).

D) After remanufacturing one or more of the solvents listed in subsection (a) (27) (A), the use of the remanufactured solvent must be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed



uses correspond to chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C) (Reporting Information to EPA), incorporated by reference in 35 Ill. Adm. Code 720.111, including Industrial Function Category Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents that become part of the mixture).

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

E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.

F) Both the hazardous secondary material generator and the remanufacturer must fulfill the following requirements:

i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;

ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.

iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the applicable Clean Air Act

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

vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).

G) The following information items are required elements for a remanufacturing plan.

i) The name, address and USEPA ID number of the generators and the remanufacturers;

ii) The types and estimated annual volumes of spent solvents to be remanufactured;

iii) The processes and industry sectors that generate the spent solvents;

iv) The specific uses and industry sectors for the remanufactured solvents; and

v) A certification from the remanufacturer stating as follows:  
"On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR 60, 61 or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage)."

BOARD NOTE: Subsections (a)(27)(G)(i) through (a)(27)(G)(v) correspond with 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1), moved to this subsection (a)(27)(G) to comport with codification requirements.

b) Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g.,

refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:

A) The facility receives and burns only the following waste:

i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or

ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

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

2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:

A) The growing and harvesting of agricultural crops; or

B) The raising of animals, including animal manures.

3) Mining overburden returned to the mine site.

4) Coal and Fossil Fuel Combustion Waste

A) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

B) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:

i) Coal Pile Run-Off. For purposes of this subsection (b)(4), "coal pile run-off" means any precipitation that drains off coal piles.

ii) Boiler Cleaning Solutions. For purposes of this subsection (b)(4), "boiler cleaning solutions" means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.

iii) Boiler Blowdown. For purposes of this subsection (b)(4), "boiler blowdown" means water purged from boilers used to generate steam.

iv) Process Water Treatment and Demineralizer Regeneration Wastes. For purposes of this subsection (b)(4), "process water treatment and demineralizer regeneration wastes" means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

v) Cooling Tower Blowdown. For purposes of this subsection (b)(4), "cooling tower blowdown" means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

vi) Air Heater and Precipitator Washes. For purposes of this subsection (b)(4), "air heater and precipitator washes" means wastes from cleaning air preheaters and electrostatic precipitators.

vii) Effluents from Floor and Yard Drains and Sumps. For purposes of this subsection (b)(4), "effluents from floor and yard drains and sumps" means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain run-off~~runoff~~, collected by yard drains and sumps located outside the power plant building.

viii) Wastewater Treatment Sludges. For purposes of this subsection (b)(4), "wastewater treatment sludges" refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).

5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.

6) Chromium Wastes

A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B) because chromium is present or which are listed

in Subpart D due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:

i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;

ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii) The waste is typically and frequently managed in non-oxidizing environments.

B) The following are specific wastes that meet the standard in subsection (b)(6)(A) (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):

i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;

iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;

vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and

viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.

7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

- i) Slag from primary copper processing;
- ii) Slag from primary lead processing;
- iii) Red and brown muds from bauxite refining;
- iv) Phosphogypsum from phosphoric acid production;
- v) Slag from elemental phosphorus production;
- vi) Gasifier ash from coal gasification;
- vii) Process wastewater from coal gasification;
- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ix) Slag tailings from primary copper processing;
- x) Fluorogypsum from hydrofluoric acid production;
- xi) Process wastewater from hydrofluoric acid production;
- xii) Air pollution control dust or sludge from iron blast furnaces;

- xiii) Iron blast furnace slag;
- xiv) Treated residue from roasting and leaching of chrome ore;
- xv) Process wastewater from primary magnesium processing by the anhydrous process;
- xvi) Process wastewater from phosphoric acid production;
- xvii) Basic oxygen furnace and open-hearth furnace air pollution control dust or sludge from carbon steel production;
- xviii) Basic oxygen furnace and open-hearth furnace slag from carbon steel production;
- xix) Chloride processing waste solids from titanium tetrachloride production; and
- xx) Slag from primary zinc production.

C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:

- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
- ii) The owner or operator legitimately reclaims the secondary mineral processing materials.

8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for USEPA hazardous waste numbers D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.

10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (USEPA hazardous waste numbers D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.

11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.

12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

B) Hot-draining and crushing;

C) Dismantling and hot-draining; or

D) Any other equivalent hot-draining method that will remove used oil.

14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:

A) The following conditions must be fulfilled:

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

USEPA Hazardous

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

ii) The solid wastes described in subsection (b)(15)(A)(i) were disposed of prior to the effective date of the listing (as set forth in that subsection);

iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and

iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).

B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored



or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.

17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.

18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:

A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;

C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;

D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

E) Generators must maintain at their site the following documentation:

i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and

iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and

F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:

i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or

ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or

iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or

iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.

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

d) Samples

1) Except as provided in subsections (d)(2) and (d)(4), a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:

A) The sample is being transported to a laboratory for the purpose of testing;

B) The sample is being transported back to the sample collector after testing;

C) The sample is being stored by the sample collector before transport to a laboratory for testing;

D) The sample is being stored in a laboratory before testing;

E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or

F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:

A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or

B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and

ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.

3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).

4) In order to qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

e) Treatability Study Samples

1) Except as is provided in subsections (e)(2) and (e)(4), a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of RCRA (42 USC 6930). Nor are such samples included in the quantity determinations of 35 Ill. Adm. Code 722.114 and 722.116 when:

A) The sample is being collected and prepared for transportation by the generator or sample collector;

B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:

A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;

B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;

C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) are met.

i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or

ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the

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

D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f), or has an appropriate RCRA permit or interim status;

E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

i) Copies of the shipping documents;

ii) A copy of the contract with the facility conducting the treatability study; and

iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and

F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.

3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):

A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of

the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

C) The additional quantities—allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F). The generator or sample collector must apply to the Agency and provide in writing the following information:

i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;

iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

v) Such other information as the Agency determines is necessary.

4) In order to qualify for the exemption in subsection (e)(1)(A), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

5) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.

f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may

qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).

2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.

3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.

5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;

B) The date the shipment was received;

- C) The quantity of waste accepted;
  - D) The quantity of "as received" waste in storage each day;
  - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
  - F) The date the treatability study was concluded;
  - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
  - B) The types (by process) of treatability studies conducted;
  - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
  - D) The total quantity of waste in storage each day;
  - E) The quantity and types of waste subjected to treatability studies;
  - F) When each treatability study was conducted; and
  - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged Material That Is Not a Hazardous Waste. Dredged material that is subject to the requirements of a permit that has been issued



under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:

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

"Permit" means any of the following:

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

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

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

h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:

1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable;

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

2) Injection of the carbon dioxide stream must comply ~~be in~~ ~~compliance~~ with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;

3) No hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

4) Required Certifications

A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.)."

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

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

C) The signed certification statement must be kept on-site for no less than three years and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

i) This subsection corresponds with 40 ~~C.F.R.~~ §CFR 261.4(i), which USEPA marked "Reserved". This statement maintains structural consistency with the federal regulation.

j) Airbag ~~waste~~Waste

1) At the airbag waste handler or during transport to an airbag waste handler or designated facility, airbag waste is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 and is not subject to the notification requirements of section 3010 of RCRA, provided that the airbag waste handler or transporter ~~fulfill~~fulfills the following conditions:

A) The airbag waste handler or transporter accumulates the airbag waste in a quantity of no more than 250 airbag modules or airbag inflators for no longer than 180 days;

B) The airbag waste handler or transporter packages the airbag waste in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste - Do Not Reuse";

C) The airbag waste handler or transporter sends the airbag waste directly to either of the following facilities:

i) An airbag waste collection facility in the United States that is under the control of a vehicle manufacturer or its authorized representative or which is under the control of a person authorized to administer a remedy program in response to a vehicle safety recall under 49 USC ~~30120,~~30120; or

ii) A designated facility, as defined in 35 Ill. Adm. Code 720.110;

D) The transport of the airbag waste complies with all applicable USDOT regulations in 49 CFR 171 through 180 during transit; and

E) The airbag waste handler maintains at the handler facility, for no less than three years, records of each off-site shipment of airbag waste and each confirmation of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter, the date of the shipment, the name and address of the receiving facility, and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. A confirmation of receipt must include the name and address of the receiving facility, the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date when the airbag waste collection facility received the airbag waste. The airbag waste handler must make shipping records and confirmations of receipt available for inspection and may satisfy this requirement using routine business records (e.g., electronic or paper financial records, bills of lading, copies of USDOT shipping papers, electronic confirmations of receipt, etc.).

2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations. The facility receiving airbag waste is considered the hazardous waste generator for the purposes of the

hazardous waste regulations and must comply with the requirements of 35 Ill. Adm. Code 722.

3) Reuse in vehicles of defective airbag modules or defective airbag inflators that are subject to a recall under 49 USC 30120 is considered sham recycling and prohibited under 35 Ill. Adm. Code 721.102(g).

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

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART J: TANK SYSTEMS

##### Section 721.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or that is unfit for use, must be removed from service immediately, and the remanufacturer or other person that stores or treats the hazardous secondary material must satisfy the following requirements:

a) Cessation of use; prevent flow or addition of materials. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately stop the flow of hazardous secondary material into the tank system or secondary containment system and inspect the system to determine the cause of the release.

b) Removal of material from tank system or secondary containment system.

1) If the release was from the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material must, within 24 hours after detection of the leak or, if the remanufacturer or other person that stores or treats the hazardous secondary material demonstrates that it is not possible, at the earliest practicable time, remove as much of the material as is necessary to prevent further release of hazardous secondary material to the environment and to allow inspection and repair of the tank system to be performed.

2) If the material released was to a secondary containment system, all released materials must be removed within 24 hours or in as timely a manner as is possible to prevent harm to human health and the environment.

c) Containment of visible releases to the environment. The remanufacturer or other person that stores or treats the hazardous secondary material must immediately conduct a visual inspection of the release and, based upon that inspection:

1) The remanufacturer must prevent further migration of the leak or spill to soils or surface water; and

2) The remanufacturer must remove, and properly dispose of, any visible contamination of the soil or surface water.

d) Notifications, reports.

1) Any release to the environment, except as provided in subsection (d)(2), must be reported to the Agency and the Administrator of USEPA Region 5 within 24 hours of its detection. If the release has been reported pursuant to 40 CFR 302, that report will satisfy the requirement to notify USEPA, but the release must still be reported to the Agency.

2) A leak or spill of hazardous secondary material is exempted from the requirements of this subsection (d) if the following is true of the leak or spill:

A) The leak or spill is less than or equal to a quantity of one pound; and

B) The leak or spill is immediately contained and cleaned up.

3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency and the Administrator of USEPA Region 5:

A) The likely route of migration of the release;

B) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

C) The results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency and the Administrator of USEPA Region 5 as soon as the results become available;

D) The proximity to downgradient drinking water, surface water, and populated areas; and

E) A description of response actions taken or planned.

e) Provision of secondary containment, repair, or closure.

1) Unless the remanufacturer or other person that stores or treats the hazardous secondary material satisfies the requirements of subsections (e)(2) through (e)(4), the tank system must cease to operate under the remanufacturing exclusion at Section 721.104(a)(27).

2) If the cause of the release was a spill that has not damaged the integrity of the tank system, the remanufacturer or other person that stores or treats the hazardous secondary material may return the tank system to service as soon as the released material is removed and repairs, if necessary, are made.

3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the primary tank system must be repaired prior to returning the tank system to service.

4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the remanufacturer or other person that stores or treats the hazardous secondary material must provide the component of the tank system from which the leak occurred with secondary containment that satisfies the requirements of Section 721.293 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or on-ground ~~enground~~ tank), the entire component must be provided with secondary containment in accordance with Section 721.193 prior to being returned to use.

f) Certification of major repairs. If the remanufacturer or other person that stores or treats the hazardous secondary material has repaired a tank system in accordance with subsection (e), and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel, etc.), the tank system must not be returned to service, unless the remanufacturer or other person that stores or treats the hazardous secondary material has obtained a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous secondary materials without release for the intended life of the system. This certification must be kept on file at the facility and maintained until closure of the facility.

BOARD NOTE: USEPA stated in note 1 appended to corresponding 40 CFR 261.196 that the Regional Administrator may, on the basis of any information received that there is or has been a release of hazardous secondary material or hazardous constituents into the environment, issue an order under RCRA section 7003(a) (42 USC 6973(a)) requiring corrective action or such other response as deemed necessary to protect human health or the environment. USEPA stated in note 2 appended to

corresponding 40 CFR 261.196 that 40 CFR 302 may require the owner or operator to notify the National Response Center of certain releases.

(Source: Amended at 43 Ill. Reg. \_\_\_\_\_, effective

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~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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