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

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

a) Prior to CRT Processing. These materials are not solid wastes if they are destined for recycling and they meet the following requirements:

1) Storage. The broken CRTs must be managed in either of the following ways:

A) They are stored in a building with a roof, floor, and walls, or

B) They are placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tubes − contains leaded glass" or "Leaded glass from televisions or computers". It must also be labeled with the following statement: "Do not mix with other glass materials."

3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of subsections (a)(1)(B) and (a)(2).

4) Speculative Accumulation and Use Constituting Disposal. The used, broken CRTs are subject to the limitations on speculative accumulation, as defined in subsection (c)(8). If they are used in a manner constituting disposal, they must comply with the applicable requirements of Subpart C of 35 Ill. Adm. Code 726, instead of the requirements of this Section.

5) Exports. In addition to the applicable conditions specified in subsections (a)(1) through (a)(4), an exporter of used, broken CRTs must comply with the following requirements:

A) It must notify the Agency and USEPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or shorter period. The notification must be in writing, signed by the exporter, and include the following information:

i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the exporter of the CRTs.

ii) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.

iii) The estimated total quantity of CRTs specified in kilograms.

iv) All points of entry to and departure from each foreign country through which the CRTs will pass.

v) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.)).

vi) The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the name of any alternate recycler.

vii) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.

viii) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.

B) Notifications must be submitted electronically using USEPA's Waste Import Export Tracking System (WIETS).

C) Upon request by the Agency or USEPA, the exporter must furnish to the Agency and USEPA any additional information which a receiving country requests in order to respond to a notification.

D) USEPA has stated that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when the Agency and USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(5)(A).

E) The export of CRTs is prohibited, unless all of the following occur:

i) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, USEPA has stated that it will forward a USEPA an Acknowledgment of Consent (AOC) to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, USEPA has stated that it will notify the exporter in writing. USEPA has stated that it will also notify the exporter of any responses from transit countries.

ii) The exporter or a U.S. authorized agent must fulfill the requirements of subsection (a)(6).

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

F) When the conditions specified on the original notification change, the exporter must provide the Agency and USEPA with a written renotification of the change using the allowable methods listed in subsection (a)(5)(ii) of this section, except for changes to the telephone number in subsection (a)(5)(A)(i) and decreases in the quantity indicated pursuant to subsection (a)(5)(A)(iii). The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subsections (a)(5)(A)(iv) and (a)(5)(A)(viii)) and the exporter of CRTs receives from USEPA a copy of the AOC to Export CRTs reflecting the receiving country's consent to the changes.

G) A copy of the AOC to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.

H) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with subsection (a)(5)(F) and obtain another AOC to Export CRTs.

I) An exporter must keep copies of notifications and AOCs to Export CRTs for a period of three years following receipt of the AOC. An exporter may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter’s account on USEPA's WIETS, or its successor system, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with USEPA's WIETS, or its successor system for which the CRT exporter bears no responsibility.

J) A CRT exporter must file with USEPA, no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destinations (i.e., the facility or facilities where the recycling occurs) of all used CRTs exported during the previous calendar year. This annual report must also include the following:

i) The name, USEPA identification number (if applicable), and mailing and site address of the exporter;

ii) The calendar year covered by the report;

iii) A certification signed by the CRT exporter that states as follows:

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

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

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

6) AES Reporting Requirements.

A) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), incorporated by reference in 35 Ill. Adm. Code 720.111.

B) Include the following items in the EEI, along with the other information required under 15 CFR 30.6, incorporated by reference in 35 Ill. Adm. Code 720.111:

i) The USEPA license code;

ii) The commodity classification code (per 15 CFR 30.6(a)(12));

iii) The USEPA consent number;

iv) The country of ultimate destination (per 15 CFR 30.6(a)(5));;

v) The date of export (per 15 CFR 30.6(a)(2));;

vi) The quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume (per 15 CFR 30.6(a)(15));; or

vii) The USEPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

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

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

b) Requirements for used CRT processing. Used, broken CRTs undergoing CRT processing, as defined in 35 Ill. Adm. Code 720.110, are not solid waste if they meet the following requirements:

1) Storage. Used, broken CRTs undergoing CRT processing are subject to the requirement of subsection (a)(4).

2) CRT Processing

A) All activities specified in the second and third paragraphs of the definition of "CRT processing" in 35 Ill. Adm. Code 720.110 must be performed within a building with a roof, floor, and walls; and

BOARD NOTE: The activities specified in the second and third paragraphs of the definition of "CRT processing" are "intentionally breaking intact CRTs or further breaking or separating broken CRTs" and "sorting or otherwise managing glass removed from CRT monitors".

B) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

c) Glass from CRT processing that is sent to CRT glass making or lead smelting. Glass from CRT processing that is destined for recycling at a CRT glass manufacturer or a lead smelter after CRT processing is not a solid waste unless it is speculatively accumulated, as defined in Section 721.101(c)(8).

d) Use constituting disposal. Glass from CRT processing that is used in a manner constituting disposal must comply with the requirements of Subpart C of 35 Ill. Adm. Code 726 instead of the requirements of this Section.

(Source: Amended at 42 Ill. Reg. 21673, effective November 19, 2018)