

ILLINOIS POLLUTION CONTROL BOARD

June 20, 2013

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R13-15
AMENDMENTS (July 1, 2012 through) (Identical-in-Substance
December 31, 2012)) Rulemaking - Land

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

SUMMARY OF TODAY'S ACTION

This opinion and accompanying order propose amendments that would update the Illinois hazardous waste regulations to include amendments adopted by the United States Environmental Protection Agency (USEPA). Normally, the focus of this proceeding would be based on USEPA amendments that occurred during the second half of calendar year 2012. During this time, however, USEPA did not amend its regulations in a way that would require Board action. Notwithstanding, the Board proposes amendments that are necessary for two purposes within the scope of our statutory mandate: (1) to incorporate corrections that USEPA has communicated to the Board as necessary to make the Illinois regulations at least as stringent as and not inconsistent with the federal hazardous waste requirements; and (2) to update incorporations by reference of federal regulations upon which the hazardous waste requirements depend so that the Illinois regulations do not become less stringent than or inconsistent with the federal hazardous waste requirements.

The Board has further included limited corrective amendments that are not directly derived from USEPA amendments. Notably, the Board has proposed the following: (1) correcting incorporations by reference in the text; and (2) corrections of cross-references in the text; and (3) removal of an obsolete provision relative to Performance Track member facilities.

This is an identical-in-substance rulemaking that would update the Illinois hazardous waste regulations. Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2010)) require the Board to adopt regulations that are "identical in substance" to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2010)). The federal RCRA Subtitle C hazardous waste management (HWM) regulations are found at 40 C.F.R. 260 through 268, 270 through 273, and 279.

Section 22.4(a) also provides that Title VII of the Environmental Protection Act (Act) and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2010)) do not apply to the Board's adoption of identical-in-substance regulations.

This opinion and order propose identical-in-substance amendments to 35 Ill. Adm. Code 703, 704, 720, 722, 724, 725, 726, 727, 728 and 739 for public comment. This proposal for

public comment would also make limited non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by federal amendments.

The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

This proceeding includes no hazardous waste rules or amendments that USEPA adopted pursuant to sections 3001 through 3005 of RCRA (42 U.S.C. §§ 6921 through 6925 (2011)) within the nominal timeframe of this docket: July 1, 2012 through December 31, 2012. Rather, the amendments in this docket are derived from two sources: (1) corrections that USEPA has suggested are necessary to make a limited number of Illinois hazardous waste provisions at least as stringent as and not inconsistent with the current federal RCRA Subtitle C requirements; and (2) updates to the versions of various federal regulations incorporated by reference in the Illinois hazardous waste regulations.

No Later RCRA Subtitle C (Hazardous Waste) Amendments of Interest

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and accompanying order, the Board has identified no USEPA actions since December 31, 2012 that further affected the RCRA Subtitle C hazardous waste rules in any way that would require immediate Board attention.

SCOPE OF THE IDENTICAL-IN-SUBSTANCE MANDATE

The following analyses limit consideration to the Board's authority to make the corrections and updates described above. The identical-in-substance mandate states in pertinent part as follows:

Sec. 22.4. Hazardous waste; underground storage tanks; regulations.

(a) In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 3001, 3002, 3003, 3004, and 3005, of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580). * * * 415 ILCS 5/22.4(a) (2012).

Sec. 7.2. Identical in Substance rulemakings.

(a) In the context of a mandate that the Board adopt regulations to secure federal authorization for a program, regulations that are "identical in substance" means State regulations which require the same actions with respect to protection of the

environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois. After consideration of comments from the USEPA, the Agency, the Attorney General and the public, the Board shall adopt the verbatim text of such USEPA regulations as are necessary and appropriate for authorization of the program. In adopting “identical in substance” regulations, the only changes that may be made by the Board to the federal regulations are those changes that are necessary for compliance with the Illinois Administrative Code, and technical changes that in no way change the scope or meaning of any portion of the regulations, except as follows:

* * *

(4) Pursuant to subsection (a) of Section 5-75 of the Illinois Administrative Procedure Act, the Board may incorporate USEPA rules by reference where it is possible to do so without causing confusion to the affected public.

* * *

(6) Wherever appropriate, the Board regulations shall reflect any consistent, more stringent regulations adopted pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act.

(7) The Board may correct apparent typographical and grammatical errors in USEPA rules.

(b) In adopting regulations that are “identical in substance” with specified federal regulations under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, subsection (a) of Section 22.7, or subsection (a) of Section 22.40, subsection (H) of section 10, or specified federal determinations under subsection (e) of Section 9.1, the Board shall complete its rulemaking proceedings within one year after the adoption of the corresponding federal rule. If the Board consolidates multiple federal rulemakings into a single Board rulemaking, the one-year period shall be calculated from the adoption date of the federal rule first adopted among those consolidated. After adopting an “identical in substance” rule, if the Board determines that an amendment is needed to that rule, the Board shall initiate a rulemaking proceeding to propose such amendment. The amendment shall be adopted within one year of the initiation of the Board’s determination. 415 ILCS 5/7.2 (2012) (emphasis added).

Initially, the Board’s actions in this docket are limited to USEPA’s rules relating to regulation of hazardous waste. Section 22.4(a) of the Act (415 ILCS 5/22.4(a) (2012)) mandates that the Board act with respect to regulations that USEPA has adopted pursuant to specific provisions of RCRA. Section 3001 principally requires USEPA to develop criteria for identification and listing of hazardous waste. 42 U.S.C. § 6921(a) and (b) (2011). Section 3002

requires standards applicable to generators of hazardous waste. 42 U.S.C. § 6922(a) (2011). Section 3003 mandates hazardous waste transporter standards. 42 U.S.C. § 6923(a) (2011). Section 3004 requires USEPA to establish standards for owners and operators of hazardous waste treatment, storage, and disposal (T/S/D) facilities. 42 U.S.C. § 6924(a) (2011). Finally, Section 3005 requires permit requirements for owners and operators of hazardous waste T/S/D facilities. 42 U.S.C. § 6925(a) (2011).

Second, the identical-in-substance rules must be at least as stringent as and consistent with the USEPA regulations upon which they are based. Section 7.2(a) requires the Board to adopt the “verbatim text of such USEPA regulations as are necessary and appropriate for authorization of the program.” 415 ILCS 5/7.2(a) (2012); *see* 415 ILCS 5/7.2(a)(6) (2012) (using the “stringency” and “consistent” language). Section 3006 of RCRA requires that the State program be equivalent to the federal program and consistent with the federal program and the programs of sister states. 42 U.S.C. § 6926(b) (2011); *see* 40 C.F.R. 271.4 (2012) (defining “consistency”); 40 C.F.R. 271.10(h)(3)(i), 271.11(e), 271.13(a), and 271.14 (2012) (requiring that state substantive and permitting requirements must be “no less stringent than” the federal requirements). Section 3009 prohibits states from imposing requirements that are less stringent than federal requirements. 42 U.S.C. § 6929 (2011).

Third, the identical-in-substance rules must have the same effect in Illinois that application of the federal rules would have. As is discussed more fully below with regard to incorporation by reference to extrinsic federal regulations, differences between the Illinois and federal regulatory schemes can make fulfilling this requirement complicated.

Finally, after adopting an identical-in-substance rule, the Board is required to initiate revisions to identical-in-substance rules when the Board determines that such is necessary. When amendments are prompted by USEPA amendments, the deadline is based on the date of the earliest USEPA action included in the rulemaking. Where the Board determines that amendment of an existing identical-in-substance rule is necessary, the Board is required to adopt the amendment within one year of the Board’s determination. 415 ILCS 5/7.2(b) (2012).

The following analyses weigh the foregoing in determining that two types of amendments fall within the scope of the identical-in-substance mandate of 415 ILCS 5/7.2 and 22.4(a): (1) the corrections requested by USEPA; and (2) updates to incorporations by reference to various federal regulations.

Authority to Correct Various Provisions as Requested by USEPA

The Board has long maintained the practice of making USEPA-suggested corrections to the Illinois hazardous waste regulations. The corrected provisions have included rules that are not otherwise involved in the pertinent docket. Until now, however, the Board has always made those corrections in a docket that was compelled by USEPA amendments that occurred during the nominal timeframe of the docket. In the past, the rulemaking has always been driven by USEPA hazardous waste rules or amendments, and the corrections are added to the docket. Thus, the due dates have always been one year after the earliest USEPA action included in the docket. *See, e.g., RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through*

December 31, 2008 and June 15, 2010), R09-16 and RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009, R10-4 (Oct. 7, 2010) (consolidated), slip op. at 4 (corrections suggested to a prior update); RCRA Subtitle C Update, USEPA Amendments (January 1, 2008 through June 30, 2008), R09-3 (Nov. 20, 2008), slip op. at 7. In fact, the Board has incorporated corrections suggested by other sources. See, e.g., RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7 (Apr. 19, 2012), slip op. at 12-15 (prompted by a JCAR request for clarification); RCRA Subtitle C Update, USEPA Amendments (March 5, 2005, September 8, 2005, January 1, 2006 through June 30, 2006), R07-5 and RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 through December 31, 2006), R07-14 (consolidated) (June 5, 2008) (Letter from Illinois Environmental Protection Agency); UIC Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-17, and RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated), slip op. at 61 (Agency request); RCRA Subtitle C Update, USEPA Amendments (January 1, 2001 through June 30, 2001), R02-1, RCRA Subtitle C Update, USEPA Amendments (July 1, 2001 through December 31, 2001, January 22, 2002, March 13, 2002, and April 9, 2002), R02-12, UIC Update, USEPA Amendments (July 1, 2001 through December 31, 2001), R02-17 (Apr. 18, 2002) (consolidated), slip op. at 27 (request by Illinois Environmental Regulatory Group).

As discussed above, the identical-in-substance mandate requires the Board to correct existing identical-in-substance rules upon a Board finding that amendment is necessary. The Board notes that this proceeding is the first time that the Board is making corrections solely based on a Board determination that amendment is necessary. Were the Board to wait until USEPA amends the federal regulations before acting to make needed corrections, the Board would ignore several aspects of the identical-in-substance mandate: (1) the requirement that the Illinois regulations must be no less stringent than the corresponding USEPA hazardous waste regulations; (2) the requirement that the Illinois rules must have the same effect as would the federal regulations; (3) the requirement that the Illinois regulations must include the elements that are “necessary and appropriate for authorization of the program”; and (4) the Board must adopt any necessary amendments to an identical-in-substance rule within one year of determining that the amendment is needed.

The Board has evaluated the USEPA suggestions for corrections and whether amendments to identical-in-substance rules are needed. The Board considers and analyzes each USEPA request in a separate discussion below. Each discussion will include a determination whether amendments are necessary based on the USEPA-suggested correction. The Board will use the date of the earliest USEPA e-mail requesting corrections, December 18, 2013, as the target date for completion of these amendments. The projections of intermediate action dates are set forth in a separate discussion below.

Authority to Update Incorporations by Reference

The existing Illinois hazardous waste regulations include numerous incorporations by reference to federal regulations. These incorporations by reference include USEPA regulations, but also regulations of the Nuclear Regulatory Commission (NRC) (portions of 10 C.F.R. 20 and

71), the United States Coast Guard (a portion of 33 U.S.C. 153), and the United States Department of Transportation (USDOT) (portions of 49 C.F.R. 107 and 171 through 180). *See* 35 Ill. Adm. Code 720.111(b). The USEPA regulations incorporated by reference include some hazardous waste provisions (portions of 40 C.F.R. 260 through 262, 264 through 267, and 270). *See* 35 Ill. Adm. Code 720.111(b). Many of the USEPA regulations incorporated by reference, however, were adopted by USEPA under authorities outside the scope of the hazardous waste authorities specified in 415 ILCS 5/22.4(a). USEPA adopted many of the federal regulations under the Clean Air Act (42 U.S.C. §§ 7401 *et seq.* (2011)) (portions of 40 C.F.R. 51, 52, 60, 61, and 63), the Clean Water Act (33 U.S.C. §§ 1251 *et seq.* (2011)) (a portion of 40 C.F.R. 136 and 232), the Safe Drinking Water Act (42 U.S.C. §§ 300f *et seq.* (2011)) (a portion of 40 C.F.R. 144), Subtitle D of RCRA (42 U.S.C. §§ 6941-6949a (2011)) (40 C.F.R. 257 and 258), and the Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.* (2011)) (portions of 40 C.F.R. 761). *See* 35 Ill. Adm. Code 720.111(b).

When USEPA relies on other federal rules for substantive requirements under RCRA, USEPA does not need to update the version of the rules as amendments occur. The version of the relied-on federal rule is not specified in the hazardous waste regulation, so that the requirements that apply are the latest version of that substantive rule.¹

When the Board incorporates by reference to a federal regulation, the Board is required to use a specific edition or version of the rule, and cannot include later amendments or editions. 5 ILCS 100/5-74(a) (2012). The result is that the Board must affirmatively update the incorporation by reference to add the later amendments or additions each time they occur.

The Board has long maintained the practice of routinely updating the incorporations by reference to federal regulations each time amendments to the Illinois hazardous waste regulations occur. The corrected provisions have included rules that are not otherwise involved in the pertinent docket. Until now, however, the Board has always made those corrections in a docket that was compelled by USEPA amendments that occurred during the nominal timeframe of the docket. In the past, the rulemaking has always been driven by USEPA hazardous waste rules or amendments, and the updates to incorporations by reference are added to the docket. *See, e.g., RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012)*, R13-5 (Jan. 24, 2013), slip op. at 4; *RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011)*, R12-7 (Apr. 19, 2012) (consolidated), slip op. at 5.

The Board believes that waiting for USEPA action would be unwise. The NRC, USEPA, and USDOT have updated their regulations several times during the timeframe of this docket. As a result, the current version of the federal regulations referenced in the federal regulations is different from those incorporated by reference in the Illinois rules. The differences can cause incorporations by reference to become obsolete or out-dated, which could make the Illinois rules become less stringent than or inconsistent with the federal hazardous waste requirements.

¹ One exception to this in the hazardous waste regulations is the reliance on the 2000 version of subpart EEE of 40 C.F.R. 63 in 40 C.F.R. 270.42(j)(1) (2012) (corresponding with 45 Ill. Adm. Code 703.280(j)(1)).

The Board observes that even though initial incorporation by reference occurs under the mandate to adopt rules that are identical-in-substance to USEPA hazardous waste rules, incorporations by reference may need to be updated even though there has been no change to the underlying federal RCRA rule. None of the NRC, Coast Guard, and USDOT regulations were adopted pursuant to the pertinent sections of RCRA. *See* 10 C.F.R. 20 and 71 (2012) (authority note); 33 U.S.C. 153 (2012) (authority note); 49 U.S.C. 107 and 171 through 180 (2012) (authority note); 415 ILCS 5/22.4(a) (2012) (mandating adoption of USEPA regulations adopted pursuant to sections 3001 through 3005 of RCRA (42 U.S.C. §§ 6921-6925 (2011))). Further, USEPA adopted a significant number of the USEPA regulations incorporated by reference in the Illinois rules under authorities outside the scope of the hazardous waste identical-in-substance mandate. *See* 40 C.F.R. 51, 52, 60, 61, 63, 136, 144, 232, 257, 258, and 761 (2012) (authority notes); 415 ILCS 5/22.4(a) (2012).

The Board updates incorporations by reference pursuant to that segment of the identical-in-substance mandate that authorizes amendment of an existing identical-in-substance rule when the Board finds that the amendment is “necessary and appropriate for authorization of the program.” *See* 415 ILCS 5/7.2(a) (2012)). Thus, all of the reasons that apply to the mandate to amend regulations based on USEPA suggestions for corrections apply to updating the incorporations by reference to federal requirements that have changed during the update period. Further, the Board believes that the ongoing need to keep the incorporations by reference up to date is fulfilling the mandate that resulted in adoption of the original incorporation by reference. As with the USEPA suggestions for corrections, this is the first time that the Board is updating incorporations by reference to federal regulations where there are no related USEPA actions during the timeframe of the docket.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. The presently projected date for publication is in the July 12, 2013 issue of the *Illinois Register*. If the Board manages to gain publication on that date, the public comment period would end on August 26, 2013. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made after consideration of the public comments. Of course, an earlier or later date of publication would result in an earlier or later expiration of the 45-day public comment period.

The Board will delay filing any adopted rules with the Secretary of State for 30 days after adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective. If USEPA expressly waives this 30-day review period in writing, the Board could file the adopted amendments prior to expiration of the 30-day period.

This opinion and order includes a number of general and specific requests for public comment on aspects of the proposed amendments. Those requests are appended to the appropriate segments of discussion throughout the discussion segment of this opinion and order.

During pendency of the prior update, RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012), R13-5 (Jan. 24, 2013), USEPA and JCAR submitted e-mails to Board staff, which the Board has entered as public comments in this proceeding. Those e-mails are described as follows:

- PC 1 Exchange of e-mails between Gary Westefer, USEPA Region 5, and Michael McCambridge, Board attorney, dated December 17, 2012 through December 18, 2012.
- PC 2 Exchange of e-mails between Gary Westefer, USEPA Region 5, and Michael McCambridge, Board attorney, dated December 20, 2012.
- PC 3 Exchange of e-mails between Deborah Connelly, JCAR staff, and Michael McCambridge, Board attorney, dated March 5, 2013.

PC 1 and PC 2 from USEPA suggest a number of corrections that USEPA believes are necessary to make the Illinois hazardous waste regulations no more and no less stringent than their federal counterparts. The Board notes that all of the suggestions included in PC 1 also appear in PC 2. The USEPA-suggested corrections are a major basis for this proceeding. PC 3 suggests a possible error in the spelling of a chemical name. That suggestion has resulted in another correction in this proceeding. Discussion of the corrections appears below.

DUE DATE AND TIMETABLE FOR COMPLETION

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2010)), the Board must complete this rulemaking within one year of the date when the Board determines that amendments are necessary and appropriate to existing identical-in-substance requirements. Adoption of a proposal for public comment today places this rulemaking a few weeks ahead of the schedule required for timely adoption. This may allow final action on the amendments according to the following accelerated schedule:

Target for completion of the amendments:	December 18, 2013
Date of Board vote to propose amendments:	June 20, 2013
Submission for <i>Illinois Register</i> publication:	July 1, 2013
Probable <i>Illinois Register</i> publication date:	July 12, 2013
Probable End of 45-day public comment period:	August 26, 2013
Date of Board vote to adopt amendments:	September 5, 2013
End of 30-day hold period for USEPA review:	October 7, 2013
Probable filing and effective date:	October 14, 2013
Probable <i>Illinois Register</i> publication date:	October 25, 2013

DISCUSSION

The following discussion begins with two segments of discussions of the federally derived amendments involved in this docket. These are (1) the USEPA-suggested corrections and (2) the updates to incorporations by reference to federal regulations. A third segment considers Board-initiated corrections and clarifying amendments. The first segment, relative to USEPA-suggested corrections, is organized in rule number order. The second segment, relative to updates to the incorporations by reference, is primarily a listing of the *Code of Federal Regulations* provisions that are incorporated by reference in the Illinois hazardous waste regulations that have been revised by federal agencies. The third segment includes specific discussion of a limited number of the corrections made. This third segment concludes with a description of the types of deviations that the Board makes from the literal text of federal regulations in adopting identical-in-substance rules.

Discussion of the USEPA-Suggested Corrections Included in This Docket

On December 18, 2012 and December 20, 2012, USEPA submitted by e-mail a series of corrections that Region 5 believes are necessary to make the Illinois hazardous waste rules no less stringent than and consistent with corresponding USEPA requirements. While USEPA submitted the corrections in the context of the then-pending docket, RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012), R13-5 (Nov. 1, 2012) (proposal for public comment), the Board included the suggestions in this docket to allow sufficient public notice and comment. *See* PC 1 and PC 2. The following paragraphs address the USEPA suggestions. Since PC 2 includes all of the suggestions submitted in PC 1, the following discussions cite only to PC 2.

Table 1 appended to the opinion segment of this opinion and order briefly lists the various USEPA-suggested corrections and briefly outlines the Board's action with regard to

each. Table 2 briefly describes deviations from the literal text of provisions that are being corrected in this proceeding.

703.241(a)(3)—Defective Cross-Reference

USEPA pointed out that 40 C.F.R. 270.32(b)(3) includes a cross-reference to “40 CFR parts 63, subpart EEE, 264 or 266,” while corresponding 35 Ill. Adm. Code 703.241(a)(3) references only “subpart EEE of 40 CFR 63 or 35 Ill. Adm. Code 724 or 725.” USEPA stated that the Board needed to correct the reference to read “subpart EEE of 40 CFR 63 or 35 Ill. Adm. Code 724 or 726.” PC 2 at 1. The Board has made the correction.

USEPA originally adopted the Boiler and Industrial Furnace (BIF) Rule and 40 C.F.R. 270.32(b)(3) in 1991. At that time, the BIF rule did not refer to permit conditions needed to comply with the NESHAP or the facility standards of 40 C.F.R. 264 or 266. *See* 56 Fed. Reg. 7134, 7206 (Feb. 21, 1991). USEPA adopted NESHAPs for hazardous waste combustors, including addition of provisions in the BIF Rule in 1999, yet that initial integration of NESHAPs requirements to the BIF did not include references to the NESHAPs. *See* 64 Fed. Reg. 52828, 53075 (Sept. 30, 1999). USEPA added 40 C.F.R. 270.32(b)(3) with the existing references to the NESHAP and hazardous waste facility standards in 2005. *See* 70 Fed. Reg. 59402, 59477 (Oct. 12, 2005). The Board adopted corresponding amendments, including addition of 35 Ill. Adm. Code. 726.200(b)(4) without discussion of the shift in the cross-reference to “35 Ill. Adm. Code 724 or 725” in place of “35 Ill. Adm. Code 724 or 726.” *See* UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated), slip op. at 52-53, 79. The incorrect cross-reference was an inadvertent error when incorporating the 2005 USEPA addition of the references.

The Board requests comments on the correction of the cross-reference from 35 Ill. Adm. Code 725 to 35 Ill. Adm. Code 726 in 35 Ill. Adm. Code 703.241(a)(3).

Section 722.110(d) and (e)—Improper Deletion of Existing Requirement

USEPA states that the Board replaced existing 40 C.F.R. 262.10(d) (1995) with a new subsection (d), rather than renumbering the existing provision to subsection (e). USEPA asserts that the omission does not require hazardous waste importers to comply with generator standards. PC 2 at 2. The Board has already restored the omitted provision and renumbered corresponding 35 Ill. Adm. Code 722.110 to agree with the federal provision. No further change is necessary at this time.

USEPA incorporated Organization for Economic Cooperation and Development (OECD) requirements for hazardous waste imports and exports in 1996. Incorporating the OECD requirements into the Illinois rules, USEPA added a new subsection (d) to 40 C.F.R. 262.10 and renumbered the existing subsection (d) to (e). *See* 72 Fed. Reg. 16290, 16309 (Apr. 12, 1996). As a result of the great similarity in the provisions, the Board erroneously edited existing subsection (d) to use the language of the added subsection (d). *See* UIC Update, USEPA

Regulations (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated), slip or. at 108.

The Board subsequently corrected 35 Ill. Adm. Code 722.110(d) and (e) to agree with corresponding 40 C.F.R. 262.10(d) and (e). Initially, the Board observed the omission of 40 C.F.R. 262.10(e) in 1998 and attempted to correct it by adding a statement that subsection (e) related to hazardous waste imports, which is a matter within the exclusive authority of USEPA. *See RCRA Update, USEPA Regulations (July 1, 1996 through December 31, 1996), R97-21, UIC Update, USEPA Regulations (January 1, 1997 through June 30, 1997), R98-3, RCRA Update, USEPA Regulations (January 1, 1997 through June 30, 1997), R98-5 (Aug. 20, 1998) (consolidated), slip op. at 24-25, slip or. at 134.* Later, the Board replaced that statement with the language of 40 C.F.R. 262.10(e) in 2005. *See RCRA Subtitle C Update, USEPA Amendments (January 1, 2004 through June 30, 2004 and October 25, 2004), R05-2 (Mar. 3, 2005), slip op. at 14, slip or. at 19.*

The Board requests comments on whether the 2006 restoration of 35 Ill. Adm. Code 722.110(d) and (e) fully addresses USEPA suggestion on these provisions.

Section 722.111(d)—Missing Exclusion

USEPA states that 40 C.F.R. 262.11(d) directs attention to the possibility of applicable exclusions under 40 C.F.R. 261, 264, 265, 266, 267, 268, or 273. USEPA points out that corresponding 35 Ill. Adm. Code 722.111(d) directs attention to exclusions in 35 Ill. Adm. Code 724 through 728 and 733. Thus, the Board has omitted the exclusions of 35 Ill. Adm. Code 721, which corresponds with 40 C.F.R. 261. PC 2 at 2. The Board is adding reference to 35 Ill. Adm. Code 721 in this proceeding.

USEPA added 40 C.F.R. 262.11(d) with the initial Land Disposal Restrictions in 1986, referring only to exclusions in 40 C.F.R. 264, 265, and 268. *See 51 Fed. Reg. 40572, 40637 (Nov. 7, 1986).* USEPA later amended subsection (d) as a segment of the Universal Waste Rule in 1995 to also refer to exclusions in 40 C.F.R. 261, 266, and 273. *See 60 Fed. Reg. 25492, 25541 (May 11, 1995).* When adopting the 1995 federal amendments, the Board added a reference to 35 Ill. Adm. Code 733, to correspond with 40 C.F.R. 273, but omitted references to 35 Ill. Adm. Code 721 and 726 without explanation. *See RCRA Update, USEPA Regulations (January 1, 1995 through June 30, 1995, July 7, 1995, September 29, 1995, November 13, 1995, and June 6, 1996), R95-20 (June 20, 1996), slip op. at 13, slip or. at 128.* The Board subsequently added references to 35 Ill. Adm. Code 726, 727, and 739. *See UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated), slip op. at 236, slip or. at 358.* The Board removed the reference to 35 Ill. Adm. Code 739 in 2011 because USEPA had not included corresponding 40 C.F.R. 279 in 40 C.F.R. 262.11(d). *See RCRA Subtitle C Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-2, RCRA Subtitle C Update, USEPA Regulations (July 1, 2010*

through December 31, 2010), R11-16 (Aug. 18, 2011) (consolidated), slip op at 79, slip or. at 204.

The Board requests comments on the restoration of the missing cross-reference to possible exclusions in 35 Ill. Adm. Code 721 in 35 Ill. Adm. Code 722.111(d).

Section 722.180(a) and 722.181 “Waste Hazardous Under U.S. National Procedures—Missing Conjunction”

USEPA asserts that 35 Ill. Adm. Code 722.180(a) is missing the conjunction “or” from the “2nd line from bottom,” presumably from corresponding 40 C.F.R. 262.80(a). PC 2 at 2. The Board believes that it previously addressed the conjunction that USEPA intends by the comment. Accordingly, no correction is necessary, and none is included in this proposal for public comment.

As originally adopted in 1996, 40 C.F.R. 262.80(a) read as follows:

(a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in § 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if it meets the Federal definition of hazardous waste in 40 CFR 261.3 and it is subject to either the Federal manifesting requirements at 40 CFR Part 262, Subpart B, to the universal waste management standards of 40 CFR Part 273, or to State requirements analogous to 40 CFR Part 273. 40 C.F.R. 262.80(a) (1996); 61 Fed. Reg. 16290, 16310 (Apr. 12, 1996).

In this passage, the conjunction “or” prefaces the clause “to State requirements analogous to 40 CFR Part 273.”

When initially adopting this provision, the Board omitted the conjunction “or” from corresponding text of 35 Ill. Adm. Code 722.180(a):

a) The requirements of this Subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and which are destined for recovery operations in any of the countries listed in Section 722.158(a)(1). A waste is considered hazardous under U.S. national procedures if it meets the definition of hazardous waste in 35 Ill. Adm. Code 721.103 and it is subject to either the manifesting requirements in Subpart B of this Part, to the universal waste management standards of 35 Ill. Adm. Code 733. RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 143.

As a result of 2010 USEPA amendments to the OECD requirements (*see* 75 Fed. Reg. 1236 (Jan. 8, 2010)), the Board removed the last sentence of this provision to create a definition of “waste hazardous under U.S. national procedures” in 35 Ill. Adm. Code 722.181. *See* RCRA Subtitle C Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-2, RCRA Subtitle C Update, USEPA Regulations (July 1, 2010 through December 31, 2010), R11-16 (Aug. 18, 2011) (consolidated), slip op. at 21-26, slip or. at 220, 25. That definition appears as follows:

“Waste hazardous under U.S. national procedures” means, for the purposes of Sections 722.110(d) and 722.159(a) and Subpart H of this Part, a waste that meets the definition of hazardous waste, as set forth in 35 Ill. Adm. Code 721.103, and which is subject to any of the following regulations:

The hazardous waste manifesting requirements of Subpart B of this Part;

The universal waste management standards of 35 Ill. Adm. Code 733, 40 CFR 273, or analogous requirements of a sister state; or

The export requirements in the spent lead-acid battery management standards of Subpart G of 35 Ill. Adm. Code 726, subpart G of 40 CFR 266, or analogous requirements of a sister state. 35 Ill. Adm. Code 722.181.

Thus, 35 Ill. Adm. Code 722.180(a) together with the addition of the 722.181 definition of “waste hazardous under U.S. national procedures” has addressed the missing “or.” If the Board misapprehends the USEPA comment, the Board requests clarification from USEPA, that the Board may complete the intended correction.

The Board requests comments on whether the 2011 amendments to 35 Ill. Adm. Code 722.181 fully addresses USEPA suggestion on the “or” missing from this provision.

Section 722.185(g)—Improper Substitution of State Citations for Federal Citations

USEPA asserts that the checklist for 40 C.F.R. 262.85(g) and the preamble discussion of that rule both require the retention of citations to 40 C.F.R. 2.203(b) and 260.2 in any corresponding State rule. In this instance the corresponding State rule is 35 Ill. Adm. Code 722.185(g). After examining the preamble discussion of protection of confidential business information (CBI) that accompanied initial adoption of 40 C.F.R. 262.85(g) and the pertinent regulations, the Board disagrees that retention of the federal citations was intended and concludes that no such retention is necessary. On the other hand, evaluation of the USEPA comment reveals that other corrections are necessary to two segments of the Illinois hazardous waste regulations.

The Board examined the preamble discussion relative to protection of CBI. That discussion stated as follows:

Under today's rulemaking, EPA is not requiring routine submission of contracts to EPA. The Agency could, however, request such information on a case-by-case basis, if necessary to process export/import notices or for enforcement purposes. Upon request, such information shall be held as confidential to the extent allowed under domestic law. Information for which a claim of confidentiality has been asserted will be managed in accordance with the provisions in 40 CFR Part 2 and 40 CFR 260.2 (as amended today), which allows information submitted by export notifiers in their notification of intent to export to be released to the U.S. Department of State and appropriate authorities of receiving countries regardless of claims of confidentiality. 61 Fed. Reg. 16289, 16302-03 (Apr. 12, 1996)

Nothing in this passage actually requires the application of federal provisions for protection of CBI over equivalent State requirements. The cited provisions, 40 C.F.R. 2.203(b) and 260.2, both pertain to public availability of submitted information and protection of confidential business information. The Illinois counterpart to 40 C.F.R. 2.203(b) (entitled "notice to be included in EPA requests, demands, and forms; method of asserting business confidentiality claim; effect of failure to assert claim at time of submission") is now 35 Ill. Adm. Code 130. The Illinois counterpart to 40 C.F.R. 260.2 (entitled "availability of information; confidentiality of information") is 35 Ill. Adm. Code 720.102. USEPA has raised no question whether these State rules are not equivalent to their federal counterparts that USEPA has asked the Board to cite directly.

Since the Agency is the lead agency of the State for purposes of obtaining USEPA authorization for the Illinois hazardous waste program, the Board has not had access to the "checklist" for the 1996 OECD rules. *See* 415 ILCS 5/4(1) (2012). Thus, the Board cannot verify whether that secondary document mandates use of the federal citations.

The Board observes that direct application of 40 C.F.R. 2.203(b) and 260.2 in Illinois could create administrative difficulties. The State has established statutory and regulatory provisions relating to disclosure of information and protection of CBI. Those established provisions apply to all entities regulated by the Agency and the Board across all environmental program areas. *See* 5 ILCS 140 (2012) (Freedom of Information Act); 415 ILCS 5/7 and 7.1 (2012) (availability of information and protection of CBI provisions in the Environmental Protection Act); 2 Ill. Adm. Code 1825.10, 1825.20, 1828, and 2175.Subpart C (Agency and Board rules relative to access to information); 35 Ill. Adm. Code 130 (Board rules relative to protection of CBI). To carve out an exception that specified federal rules instead apply for protection of CBI for purposed of a single, narrow aspect of hazardous waste regulation would create confusion and impose an undue administrative burden on the Board and the Agency.

Concluding that the Board cannot reasonably substitute the two federal citations for the existing equivalent State citations as requested by USEPA does not end this analysis. The Board notes problems with the existing texts of 35 Ill. Adm. Code 720.2(b) and 722.185(g), and the Board is correcting the text of each.

First, the text of 35 Ill. Adm. Code 722.185(g) is not fully equivalent to corresponding 40 C.F.R. 262.85(g), which appears as follows (excluding the appended note):

(g) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 40 CFR 260.2.

The Board erroneously changed the text without explanation when initially adopting corresponding 35 Ill. Adm. Code 722.185(g) in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 24, 45-46, slip or. at 143. The text of 35 Ill. Adm. Code 722.185(g) reads as follows:

g) Upon request by USEPA or the Agency, a U.S. exporter, importer, or recovery facility must submit to USEPA and the Agency copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 35 Ill. Adm. Code 120 will be treated as confidential and will be disclosed by the Agency only as provided in 35 Ill. Adm. Code 120.

The Board sees two problems with the Illinois text. First, equivalent of 40 C.F.R. 262.85(g) would have required substitution of the federal citation to 40 C.F.R. 260.2(b) with a citation to corresponding 35 Ill. Adm. Code 720.102(b). Further, the Board notes that the citation to “35 Ill. Adm. Code 120,” the former provisions for trade secrets and CBI protection is out-dated. The Board codified all of the provisions for trade secrets and CBI protection in Ill. Adm. Code 130 in 2000. *See* Revision of the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130, R00-20 (Dec. 21, 2000), slip op. at 15. Thus, the second citation to 35 Ill. Adm. Code 120 must change to 35 Ill. Adm. Code 130. Discussion below of Board-initiated corrections considers this change.

Second, the text of 35 Ill. Adm. Code 720.102(b) should include the same substance as the text of corresponding 40 C.F.R. 260.2(b), but it does not. There are problems with this text. The federal text of 40 C.F.R. 260.2(b) reads as follows:

(b) Any person who submits information to EPA in accordance with parts 260 through 266 and 268 of this chapter may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in § 2.203(b) of this chapter. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in part 2, subpart B, of this chapter except that information required by §§ 262.53(a) and 262.83 that is submitted in a notification of intent to export a hazardous waste will

be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.

Corresponding 35 Ill. Adm. Code 720.102(b) omits the first half of this provision in its entirety²:

- b) Information required under 35 Ill. Adm. Code 722.153(a) and 722.183 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality or trade secret.

Thus, the Board must restore the omitted text that relates how a person may obtain protection of CBI. To do so, the Board has added the text of 40 C.F.R. 260.2(b) up to and excluding the words “except that.” The Board has substituted “the Board or the Agency” for “EPA” and “35 Ill. Adm. Code 130” for “§ 2.203(b) of this chapter.” As an ancillary correction, the Board updated the obsolete citation to “35 Ill. Adm. Code 101.107 and 120” to “35 Ill. Adm. Code 130” in 35 Ill. Adm. Code 720.102(a). Finally, the Board changed “parts 260 through 266 and 268 of this chapter” to read “this Part and 35 Ill. Adm. Code 721 through 728,” including the Standardized Permit Rule of 35 Ill. Adm. Code 727, which USEPA omitted by omitting 40 C.F.R. 267 from the cross-reference.

Thus, the Board has not followed USEPA comments relative to retention of federal citations to maintain equivalency of this provision. Instead, the Board has observed that 35 Ill. Adm. Code 720.102 and 722.185(g) were not the equivalent of their federal counterparts, and the Board has made necessary corrections to obtain equivalency.

The Board requests comments on whether the cited Illinois statutory and regulatory provisions sited relative to protection of CBI are the equivalent of the federal provisions that USEPA has suggested that the Board should cite in 35 Ill. Adm. Code 725.185(g), considering the corrections made to that provision and 35 Ill. Adm. Code 720.102(a) and (b).

Section 724.930(c) note—Exemption Not Deleted

USEPA pointed out that it removed the reference to exemption of generator accumulation under 40 C.F.R. 262.34 from the notes appended to 40 C.F.R. 264.1030(c) and 264.1050, yet corresponding 35 Ill. Adm. Code 724.930(c) still refers to 35 Ill. Adm. Code 722.134. USEPA observed that the reference does not appear in the note appended to 35 Ill. Adm. Code 724.950.

² The Board did not amend 35 Ill. Adm. Code 720.102 when adopting the OECD provisions in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip or. at 54.

USEPA stated that the Board needs to correct the note by removing the reference. The continued presence of the reference could result in Illinois exempting more facilities than would result under the federal rule. PC 2 at 1. The Board has made the correction.

USEPA removed the references to a segment of the 1996 amendments to the air emission control standards for tanks, surface impoundments, and containers. *See* 61 Fed. Reg. 59932, 59950, 59952 (Nov. 25, 1996). The Board adopted corresponding 35 Ill. Adm. Code 724.1030, including all of those amendments, expressing confusion and frustration over the two rounds of amendments, in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 42-43, 59. The current error occurred in the process of incorporating the original December 6, 1994 USEPA rules, then layering the two of 1996 amendments into the rules.

The Board requests comments on the removal of the cross-reference to 35 Ill. Adm. Code 722.134 from the note appended to 35 Ill. Adm. Code 724.930(c).

Section 724.989(f)(1)—Missing Cross-Reference

USEPA observes that 40 C.F.R. 264.1089(f)(1) cross-references six exemptions in 40 C.F.R. 264.1082(c)(2)(i) through (c)(2)(vi), but corresponding 35 Ill. Adm. Code 724.989(f)(1) refers to only five in 35 Ill. Adm. Code 724.982(c)(2)(A) through (c)(2)(E). Thus, the Board omitted the exemption in 35 Ill. Adm. Code 724.989(c)(2)(F), which would correspond with that of 40 C.F.R. 264.1082(c)(2)(vi). PC 2 at 2. The Board will make the suggested change at this time.

USEPA adopted 40 C.F.R. 264.1089 in 1996. As initially adopted, 40 C.F.R. 264.1089(f)(1) referred to exemptions in 40 C.F.R. 264.1082(c)(2). *See* 61 Fed. Reg. 59932, 59967 (Nov. 25, 1996). USEPA changed the cross-reference to its current form, 40 C.F.R. 264.1082(c)(2)(i) through (c)(2)(vi) a year later. *See* 62 Fed. Reg. 64636, 64660 (Dec. 8, 1997). The Board erred when revising 35 Ill. Adm. Code 724.989(f)(1) in 1998 to omit a cross-reference to 35 Ill. Adm. Code 724.1082(c)(2)(F) without discussion. *See* RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997), R98-21, RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998), R99-2, UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998), R99-7 (Dec. 17, 1998) (consolidated), slip op. at 27, slip or. at 253.

The Board requests comments on the restoration of the missing cross-reference to the exemption in 35 Ill. Adm. Code 724.989(c)(2)(F) to the text of 35 Ill. Adm. Code 724.989(f)(1).

Section 724.989(i)(2)(B) and (i)(3)(B)—“Tank” in place of “Containers”

USEPA pointed out that 40 C.F.R. 264.1089(i)(2)(ii) and (i)(3)(ii) relate exclusively to containers, while segments of corresponding 35 Ill. Adm. Code 724.989(i)(2)(ii) and (i)(3)(ii)

refer to “tank” and “tanks.” USEPA stated that the Board needed to correct the reference to refer to “container” and “containers.” PC 2 at 1. The Board has made the correction.

USEPA originally adopted 40 C.F.R. 264.1089 as a segment of the air emission control standards for tanks, surface impoundments, and containers in 1994 and amended this provision twice in 1996. *See* 61 Fed. Reg. 59932, 59966-68 (Nov. 25, 1996); 61 Fed. Reg. 4903, 4913 (Feb. 9, 1996); 59 Fed. Reg. 62896, 62933 (Dec. 6, 1994). The Board adopted corresponding 35 Ill. Adm. Code 724.1089, including all of those amendments, expressing confusion and frustration over the two rounds of amendments, in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 42-43, 59. It is apparent that the current error occurred in the process of incorporating the original December 6, 1994 USEPA rules, then layering the two rounds of 1996 amendments into the rules.

The Board requests comments on the corrections from “tank” and “tanks” to “container” and “containers” in 35 Ill. Adm. Code 724.989(i)(2)(ii) and (i)(3)(ii).

Section 725.985(f)(3)(A)(iv)—Erroneous Cross-Reference

USEPA pointed out that 40 C.F.R. 265.1085(f)(3)(i)(D)(4) includes a fifth level of indentation, which is not permissible under Illinois codification requirements. PC 2 at 2; *see* 1 Ill. Adm. Code 100.340(d). Thus, the Board codified 40 C.F.R. 265.1085(f)(3)(i)(D)(4) as 35 Ill. Adm. Code 725.985(f)(3)(D). *See* RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 44; RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (July 24, 1997) (consolidated) (proposal for public comment), slip op. at 36, 52. USEPA notes, however, that the reference at 35 Ill. Adm. Code 725.985(f)(3)(A)(iv) includes a cross-reference to “subsection (f)(4)(D) of this Section.” PC 2 at 2. The Board has corrected the cross-reference to appear as “subsection (f)(3)(D) of this Section.”

USEPA originally adopted the air emission control standards for tanks, surface impoundments, and containers, of which 40 C.F.R. 265.1085 is a segment, in 1994 and amended it twice in 1996. *See* 61 Fed. Reg. 59932, 59992 (Nov. 25, 1996); 61 Fed. Reg. 4903, 4915 (Feb. 9, 1996); 59 Fed. Reg. 62896, 62948-49 (Dec. 6, 1994). The Board adopted corresponding 35 Ill. Adm. Code 725.985, including all of those amendments, expressing confusion and frustration over the two rounds of amendments, in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 42-43. The current error occurred in the process of incorporating the original December 6, 1994 USEPA rules, then layering the two rounds of 1996 amendments into the rules.

The Board requests comments on the correction from “subsection (f)(4)(D)” to “subsection (f)(3)(D)” in 35 Ill. Adm. Code 725.985(f)(3)(A)(iv).

Section 725.990(a)—Missing Cross-Reference

USEPA states that 40 C.F.R. 265.1090(a) was changed to add cross-references to subsection (i) and (j). USEPA points out that corresponding 35 Ill. Adm. Code 725.990(a) refers only to subsection (j). PC 2 at 2. The Board corrects this error in this docket.

As originally adopted by USEPA in 1996, 40 C.F.R. 265.1090(a) excepted the information collected pursuant to subsection (i) from the three-year records retention requirement. *See* 61 Fed. Reg. 59932, 59990 (Nov. 25, 1996). USEPA changed the cross-reference to also exclude information collected pursuant to subsection (j) a year later. *See* 62 Fed. Reg. 64636, 64667 (Dec. 8, 1997). The Board erred when revising 35 Ill. Adm. Code 725.990(a) in 1998 to omit a cross-reference to subsection (i) without discussion. *See* RCRA Update, USEPA Regulations (July 1, 1997 through December 31, 1997), R98-21, RCRA Update, USEPA Regulations (January 1, 1998 through June 30, 1998), R99-2, UIC Update, USEPA Regulations (January 1, 1998 through June 30, 1998), R99-7 (Dec. 17, 1998) (consolidated), slip op. at 30, slip or. at 365.

The Board requests comments on the restoration of the cross-reference to subsection (i)” in 35 Ill. Adm. Code 725.990(a).

Section 725.990(g)—Missing Cross-Reference

USEPA pointed out that 40 C.F.R. 265.1090(g) includes a cross-reference to “§ 265.985(l) or § 265.1086(g),” while corresponding 35 Ill. Adm. Code 725.990(g) references only “Section 725.985(l).” USEPA stated that the Board needed to correct the reference to read “Section 725.985(l) or 725.986(g).” PC 2 at 1. The Board has made the correction.

USEPA originally adopted the air emission control standards for tanks, surface impoundments, and containers, of which 40 C.F.R. 265.1090 is a segment, in 1994 and amended it twice in 1996. *See* 61 Fed. Reg. 59932, 59992 (Nov. 25, 1996); 61 Fed. Reg. 4903, 4915 (Feb. 9, 1996); 59 Fed. Reg. 62896, 62948-49 (Dec. 6, 1994). The Board adopted corresponding 35 Ill. Adm. Code 725.990, including all of those amendments, expressing confusion and frustration over the two rounds of amendments, in RCRA Update, USEPA Regulations (July 1, 1995 through December 31, 1995), R96-20, UIC Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996 through June 30, 1996), R97-5 (Nov. 6, 1997) (consolidated), slip op. at 42-43. The current error occurred in the process of incorporating the original December 6, 1994 USEPA rules, then layering the two rounds of 1996 amendments into the rules.

The Board requests comments on the restoration of the cross-reference to 35 Ill. Adm. Code 725.986(g) in 35 Ill. Adm. Code 725.990(g).

726.200(b)(4)—Missing Reference to NESHAP Requirement

USEPA pointed out that 40 C.F.R. 265.1090(g) includes a cross-reference to the NESHAP provisions “§§ 63.1216(e) and 63.1218,” while corresponding 35 Ill. Adm. Code 726.200(b)(4) references only “40 CFR 63.1216(e).” USEPA stated that the Board needed to correct the reference to read “40 C.F.R. 63.1216(e) and 63.1218.” PC 2 at 1. The Board has made the correction.

USEPA originally adopted the BIF Rule of 40 C.F.R. 265.100 in 1991. At that time, the BIF rule did not reference the NESHAP. *See* 56 Fed. Reg. 7134, 7206 (Feb. 21, 1991). USEPA adopted NESHAPs for hazardous waste combustors, including addition of provisions in the BIF Rule in 1999, yet that initial integration of NESHAPs requirements to the BIF did not include references to the NESHAPs. *See* 64 Fed. Reg. 52828, 53075 (Sept. 30, 1999). USEPA added 40 C.F.R. 266.100(b)(4) with the existing references to the NESHAP in 2005. *See* 70 Fed. Reg. 59402, 59476 (Oct. 12, 2005). The Board adopted corresponding amendments, including addition of 35 Ill. Adm. Code. 726.200(b)(4) without discussion of omission of a reference to 40 C.F.R. 63.1218. *See* UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated), slip op. at 52-53, 111. The omission was an inadvertent error when incorporating the 2005 USEPA addition of the references.

The Board requests comments on the restoration of the cross-reference to 40 C.F.R. 63.1218 in 35 Ill. Adm. Code 726.200(b)(4).

Section 727.240(k)(1)—Improper Substitution of “Agency” for “Administrator”

The federal financial responsibility provision in the Standardized Permit Rule, 40 C.F.R. 267.150, provides for State assumption of responsibility for closure care and liability financial assurance requirements. In six places, the federal rule refers to “the Regional Administrator.” *See* 40 C.F.R. 267.150(a) (2012). USEPA points out that corresponding 35 Ill. Adm. Code 727.240(k)(1) has inappropriately substituted “the Agency” for each reference to “the Regional Administrator.” PC 2 at 2. The Board now corrects each reference to “USEPA.”

USEPA adopted the Standardized Permit Rule, including 40 C.F.R. 267.150(a) in 2005. *See* 70 Fed. Reg. 53420, 53467 (Sept. 8, 2005). USEPA stated that it incorporated this provision to parallel a similar provision in 40 C.F.R. 264.150. Nowhere in that discussion did USEPA state that it reserved review and approval of State-provided financial assurance to itself. 70 Fed. Reg. at 53441. The Board adopted corresponding Illinois requirements in UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006) (consolidated). As is our practice, the Board substituted “Agency” for “Regional Administrator” in the text.

The Board observes that USEPA adopted the 40 C.F.R. 264.150 provision for state-provided financial assurance with the initial financial assurance requirements in 1982. *See* 47 Fed. Reg. 15032, 15058 (Apr. 7, 1982). When adopting this provision, USEPA stated that the Regional Administrators would be determining the equivalency of the State-provided financial assurance. 47 Fed. Reg. at 15035-36. When considering the 1982 federal financial assurance requirements, the Board considered limited State-provided financial assurance, but did not propose an Illinois provision to correspond with 40 C.F.R. 264.150. *See* Phase II RCRA Rules, R82-19 (Mar. 18, 1983) (proposal for public comment), slip op. at 4-6. In response to public comments, the Board did not adopt its proposed provision, and the Board did not adopt an equivalent to 40 C.F.R. 264.150. *See* Phase II RCRA Rules, R82-19 (July 26, 1983) (adopted rule), slip op. at 46. As a result, the provision for State-provided financial assurance is found in the Standardized Permit Rule, 35 Ill. Adm. Code 727.240(k).

The Board requests comments on the several changes in the references from “the Agency” to “USEPA” in 35 Ill. Adm. Code 727.240(k)(1).

Section 728.144—Improper Substitution of “Board” for “Administrator”

USEPA explained that the authority to grant a variance from a treatment standard pursuant to 40 C.F.R. 268.44 is not delegable to the State. Thus, the language in corresponding 35 Ill. Adm. Code 728.144 relative to Board granting adjusted standards from treatment standards is not appropriate PC 2 at 2.. The Board has corrected the language.

USEPA adopted the 40 C.F.R. 268.44 provision for variances from treatment standards in 1986, with the initial installment of Land Disposal Restrictions. *See* 51 Fed. Reg. 40572, 40642 (Nov. 7, 1986). The Board adopted corresponding 35 Ill. Adm. Code 728.144 in RCRA Update, USEPA Regulations (October 1, 1986 through December 31, 1986), R87-5 (Oct. 15, 1987), slip op. at 13-14, with the understanding that the State would play an active role in reviewing and granting “variances” from treatment standards upon federal authorization. The Board now observes that at the time of adoption, USEPA had considered delegation of decision-making to the states, but declined to do so due to the limited number of petitions for variance that USEPA anticipated. 51 Fed. Reg. at 40605.

The Board requests comments on the several changes in the references to Board grants of adjusted standards from a treatment standard throughout various segments of 35 Ill. Adm. Code 728.144 to refer to obtaining a variance from a treatment standard from USEPA.

Discussion of Updated Incorporations by Reference—Section 720.111

During the course of the update period July 1, 2012 through December 31, 2012, USEPA and various other federal agencies amended various federal regulations that are incorporated by reference in the Illinois hazardous waste regulations. USEPA referenced these federal regulations in various federal hazardous waste requirements. The federal regulations revised during the period that are incorporated by reference are listed as follows:

10 C.F.R. 71 (adopted by the Nuclear Regulatory Commission)

Amended: July 6, 2012 (77 Fed. Reg. 39899)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
726.430(c)	266.330(c)

40 C.F.R. 60 (adopted by USEPA pursuant to the Clean Air Act)

Amended: July 30, 2012 (77 Fed. Reg. 44488)

August 14, 2012 (77 Fed. Reg. 48433)

August 16, 2012 (77 Fed. Reg. 49489)

September 12, 2012 (77 Fed. Reg. 56421)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
724.964(m)	264.1064(m)
724.980(b)(7)	264.1080(b)(7)
725.964(m)	265.1064(m)
725.980(b)(7)	265.1080(b)(7)

40 C.F.R. 63 (adopted by USEPA pursuant to the Clean Air Act)

Amended: July 12, 2012 (77 Fed. Reg. 41075)

August 16, 2012 (77 Fed. Reg. 49489)

September 11, 2012 (77 Fed. Reg. 55698)

September 19, 2012 (77 Fed. Reg. 58219)

October 25, 2012 (77 Fed. Reg. 65135)

December 21, 2012 (77 Fed. Reg. 75739)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
724.933(n)(1)(C)	264.1033(n)(1)(C)
724.964(m)	264.1064(m)
724.980(b)(7)	264.1080(b)(7)
725.933(n)(1)(C)	265.1033(n)(1)(C)
725.964(m)	265.1064(m)
725.980(b)(7)	265.1080(b)(7)
726.200(b)(3)	266.100(b)(3)

40 C.F.R. 761.3 (adopted by USEPA pursuant to the Toxic Substances Control Act)

Amended: August 3, 2012 (77 Fed. Reg. 46289)

September 6, 2012 (77 Fed. Reg. 54818)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
728.102 (“polychlorinated biphenyls”)	268.2(e)
739.110(i)	279.10(e)

40 C.F.R. 761.60 (adopted by USEPA pursuant to the Toxic Substances Control Act)
Amended: August 3, 2012 (77 Fed. Reg. 46289)
September 6, 2012 (77 Fed. Reg. 54818)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
728.142(a)(1)	268.42(a)(1)

40 C.F.R. 761.65 (adopted by USEPA pursuant to the Toxic Substances Control Act)
Amended: August 3, 2012 (77 Fed. Reg. 46289)
September 6, 2012 (77 Fed. Reg. 54818)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
728.150(f)	268.50(f)

49 C.F.R. 171 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)
Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
721.104(a)(25)(A)(ii)	261.4(a)(25)(i)(B)
721.104(a)(25)(K)(iv)	261.4(a)(25)(xi)(D)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
739.143(b)	279.43(b)

49 C.F.R. 171.8 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)
Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
733.155(b)	273.55(b)
739.143(b)	279.43(b)

49 C.F.R. 172

Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
721.104(a)(25)(A)(ii)	261.4(a)(25)(i)(B)
721.104(a)(25)(K)(iv)	261.4(a)(25)(xi)(D)
722.131	262.31
722.132(a)	262.32(a)
724.986(f)(2)	264.1086(f)(2)
725.987(f)(2)	265.1087(f)(2)
733.114(c)(1)(B)	273.14(c)(1)(B)
733.118(c)	273.18(c)
733.134(c)(1)(B)	273.34(c)(1)(ii)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
733.155(b)	273.55(b)
739.143(b)	279.43(b)

49 C.F.R. 173 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)

Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
721.104(a)(24)(B)	261.4(a)(24)(11)
721.104(a)(25)(A)(ii)	261.4(a)(25)(i)(B)
721.104(a)(25)(K)(iv)	261.4(a)(25)(xi)(D)
722.130	262.130
724.416(a)	264.316(a)
724.986(f)(2)	264.1086(f)(2)
725.416(a)	265.316(a)
725.987(f)(2)	265.1087(f)(2)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
739.143(b)	279.43(b)

49 C.F.R. 173.12 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)

Amended: October 5, 2012 (77 Fed. Reg. 60935)

724.416(f)	264.316(f)
724.986(f)(4)	264.1086(f)(4)
725.416(f)	265.316(f)
725.987(f)(4)	265.1087(f)(4)

49 C.F.R. 175 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)
Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
739.143(b)	279.43(b)

49 C.F.R. 178 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)
Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
721.104(a)(24)(B)	261.4(a)(24)(ii)
722.130	262.30
724.416(a)	264.316(a)
724.986(f)(3)	264.1086(f)(3)
725.416(a)	265.314(a)
725.987(f)(1)	265.1087(f)(1)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
739.143(b)	279.43(b)

49 C.F.R. 179 (adopted by USDOT pursuant to the Hazardous Materials Transportation Act)
Amended: October 5, 2012 (77 Fed. Reg. 60935)

Location of Citation (35 Ill. Adm. Code)	Location of Citation (40 C.F.R.)
721.104(a)(24)(B)	261.4(a)(24)(ii)
722.130	262.30
724.416(a)	264.316(a)
724.986(f)(1)	264.1086(f)(1)
725.416(a)	265.316(a)
725.987(f)(1)	265.1087(f)(1)
733.118(c)	273.18(c)
733.138(c)	273.38(c)
733.152(a)	273.52(a)
739.143(b)	279.43(b)

In the course of updating the incorporations by reference to federal regulations, the Board observed a limited number of errors and omissions. The Board has made the necessary changes. The changes made are listed in Table 3 below.

The Board requests comments on the updated incorporations by reference to various federal regulations.

Discussion of Board-Initiated Corrections and Updates

The Board routinely examines federal amendments and the base text of rules open for amendments to find any areas that need correction or clarification. JCAR and the Office of the Secretary of State also routinely examine the text and suggest corrections and clarifications. Sometimes suggestions arise from the Illinois Environmental Protection Agency, USEPA, or members of the regulated community. The Board often makes revisions as a result.

The revisions thus made are not directly derived from federal amendments. The Board is ever mindful of the limited discretion authorized in the context of an identical-in-substance proceeding. The Board is limited to (1) “those changes that are necessary for compliance with the Illinois Administrative Code”; (2) “technical changes that in no way change the scope or meaning of any portion of the regulations”; (3) “USEPA rules that are not applicable to persons or facilities in Illinois”; (4) “things which are outside the Board’s normal functions”; and (5) “apparent typographical and grammatical errors.” *See* 415 ILCS 5/7.2(a), (a)(1), (a)(2), and (a)(7) (2010). Thus, the Board will only make minor, non-substantive corrections and clarifications in this context. These corrections are non-substantive in effect.

The Board is including a number of corrections and clarifications in this docket. The Board has cataloged a small number of necessary corrections and clarifications since the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012), R13-5 (Jan. 24, 2013).

The Board has made a limited number of changes in the text of various rules that are not directly based on USEPA actions during July 1, 2012 through December 31, 2012. The following segments of discussion consider the amendments added by the Board. The Board will not discuss most of the particular corrective amendments in detail. All corrections are itemized in Table 1, which begins on page ### of this opinion. The following segments briefly discuss what the Board believes are the most salient of the corrections.

The Board requests that the Illinois Environmental Protection Agency (Agency), the Joint Committee on Administrative Rules (JCAR), USEPA and the regulated community review the table and the text of the corrections and comment as necessary. The Board also requests ongoing assistance of the Agency, JCAR, and the regulated community in the process of spotting and correcting errors or omissions in the rules. The Board requests that interested persons submit suggestions for the correction of any errors of which they become aware. The Board will either include the corrections in this docket or catalog them for future revisions if the suggestions relate to segments of the text that are not already involved in this proceeding.

The Board has determined that a limited number of corrections to the text of various rules is needed. All of the Board-initiated corrections are listed in Table 3 below. Discussion of specific corrections follows.

Deletion of Provision re Performance Track Member Facilities—Section 703.280(l).

The permit rules, at 35 Ill. Adm. Code 703.280(l) and paragraph O.1. in Appendix A to 35 Ill. Adm. Code 703, include a provisions relating to Performance Track member facilities. This

provision is derived from corresponding 40 C.F.R. 270.42(k) and appendix I to 40 C.F.R. 270.42, where they still exist. The Board proposes deletion of these provisions, principally because they are obsolete and do not apply to facilities or persons in Illinois.

USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective, but USEPA has not yet rescinded the associated rules applicable to the program. USEPA intends to do so in the future. *See* 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). The Board removed Performance Track Program-related provisions at Sections 720.110 (“Performance Track member facility”); 722.134(j), (k), and (l); 724.115(b)(4) and (b)(5); 724.274; 724.295(e); 724.1101(c)(4); 725.115(b)(4) and (b)(5); 725.274; 725.295(d); 725.301(e); and 725.1101(c)(4) in RCRA Subtitle C Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-2, RCRA Subtitle C Update, USEPA Amendments (July 1, 2010 through June 30, 2010), R11-16 (Aug. 18, 2011) (consolidated), slip op at 43. Removal of the two remaining provisions from 35 Ill. Adm. Code 703.280 and Appendix A to 35 Ill. Adm. Code 703 will complete that removal.

The Board requests comments on removal of the obsolete provisions from 35 Ill. Adm. Code 703.280(i) and 703.Appendix A relative to the defunct federal Performance Track program, although USEPA has not yet removed the corresponding obsolete federal provisions from 40 C.F.R. 270.42(k) and appendix I to 40 C.F.R. 270.42.

Corrected Citations to Provisions re Protection of Trade Secrets and Confidential Business Information—Sections 727.110, 739.142, 739.151, 739.162, and 739.173. Segments of the hazardous waste regulations reference the Board procedural rules for protection of trade secrets and confidential business information (CBI). Many of those citations are wrong and need correction because they are obsolete. The Board corrects the obsolete cross-references in this proceeding.

The Board revised the procedural rules in 2000, and a segment of the revisions involved codifying all of the provisions for protection of trade secrets and CBI in Ill. Adm. Code 130. *See Revision of the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130, R00-20* (Dec. 21, 2000), slip op. at 15. Segments of the hazardous waste regulations, however, still cite to former 35 Ill. Adm. Code 120. The Board has revised those cross-references as follows:

Location of Reference	Obsolete Cross-Reference	Revised Cross-Reference
Section 703.302(e)	35 Ill. Adm. Code 120 (two references)	35 Ill. Adm. Code 130
Section 703.302(e)	35 Ill. Adm. Code 120.305	35 Ill. Adm. Code 130.302
Section 703.302(e)	35 Ill. Adm. Code 120.201	35 Ill. Adm. Code 130.200
Section 722.185(g)	35 Ill. Adm. Code 120 (two references)	35 Ill. Adm. Code 130

The Board requests comments on replacing the outdated references to the Board procedural rules for protection of trade secrets and CBI in 35 Ill. Adm. Code 703.302(e) and 722.185(g).

Revisions to Requirements for Obtaining a USEPA Identification Number—Sections 727.110, 739.142, 739.151, 739.162, and 739.173. Segments of the hazardous waste regulations require various types of facilities to obtain a USEPA identification number from USEPA. Obtaining a USEPA identification number formerly required obtaining an application from the State, as the instructions for EPA Form 8700-12 formerly required obtaining a copy of the form from the State and submission of the completed form to Region 5. *See, e.g.,* Notification of Regulated Waste Activity, USEPA Form 8700-12 (Rev. 12/99), at 17. The July 2006 and later versions of the Form 8700-12, however, have not expressly required contact with the State. *See* Notification of Regulated Waste Activity, USEPA Form 8700-12 (Nov. 2009); Notification of Regulated Waste Activity, USEPA Form 8700-12 (Dec. 2011); Notification of Regulated Waste Activity, USEPA Form 8700-12 (July 2006).

The Board revised the generator notification requirements in 35 Ill. Adm. Code 722.111(b) to require notification to the Agency in 2010. *See* RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16 and RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009, R10-4 (Oct. 7, 2010) (consolidated), slip op. at 386 (corrections suggested to a prior update). The Board subsequently revised the hazardous waste transporter and treatment, storage, and disposal (T/S/D) facility notification requirements in 35 Ill. Adm. Code 723.111, 724.101(j)(1), 724.111, 725.111 in 2011. *See* RCRA Subtitle C Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-2, RCRA Subtitle C Update, USEPA Regulations (July 1, 2010 through December 31, 2010), R11-16 (Aug. 18, 2011) (consolidated), slip op. at 48-49, slip or. at 258, 270, 272, 338. Unchanged are the standardized permit facility and used and waste oil notification provisions in 35 Ill. Adm. Code 727.110, 739.142, 739.151, 739.162, and 739.173.

The Board has included amendment of the rules re use of the USEPA form, “Notification of RCRA Subtitle C Activity,” in the Standardized Permit Rule and the Used and Waste Oil Rule at 35 Ill. Adm. Code 727.110(c), 739.142(b)(1), 739.151(b)(1), 739.162(b), and 739.173(b). The revisions clarify that the generator is to obtain the form from the State and submit a copy to the State, in addition to any submission to USEPA. This ensures that the Agency receives immediate, direct notice of the regulated activities.

The Board requests comments on the revisions to the notification requirements in 35 Ill. Adm. Code 727.110(c), 739.142(b)(1), 739.151(b)(1), 739.162(b), and 739.173(b) to require regulated entities to obtain copies of the notification form from the Agency and to submit a copy of the completed form to the Agency when notifying USEPA of Subtitle C-regulated activities.

Revisions to Standardized Permit Rule Financial Assurance Provisions—Section 240. The Board has made four revisions to the financial assurance provisions applicable to Standardized Permit Rule facilities. One relates to the definition of “substantial business relationship” in 35 Ill. Adm. Code 727.240(b)(8) (corresponding with 40 C.F.R. 267.141(h)). A second states the availability of the table, “Implicit Price Deflator for Gross Domestic Product,”

referenced in 35 Ill. Adm. Code 727.240(c)(2) (corresponding with 40 C.F.R. 267.142(b)). The third relates to designation of the financial assurance forms that are required by 35 Ill. Adm. Code 727.240(d)(1)(E), (d)(2), (d)(3), (d)(4), (d)(5), (d)(7)(A), (h)(7)(A), (i)(1), (l)(1), (l)(2), and (p)(1)(A) (corresponding with 40 C.F.R. 267.143(a)(5), (b), (c), (d), (e), and (g)(1); 267.147(g)(1); 267.148(a); 267.151(a) and (b); and 267.147(f)(2)(i)(A)) for providing financial assurance. The fourth revision was removal of 35 Ill. Adm. Code 727.240(d)(6)(C) and its appended Board note.

Definition of “Substantial Business Relationship.” The definition of “substantial business relationship” at 35 Ill. Adm. Code 727.240(b)(8) is derived from the definition in 40 C.F.R. 267.141(h). In the federal rule, the definition depends on “demonstrated to the satisfaction of the applicable EPA Regional Administrator.” 40 C.F.R. 267.141(h) (2012); *see also* 40 C.F.R. 264.141(h) and 265.141(h) (2012) (the same definition in the permitted facility and interim status facility standards). The Illinois rule changed this to “demonstrated to the satisfaction of the Agency.” *See* 35 Ill. Adm. Code 727.240(b)(8). The Board believes that a revision of the language to the active voice, consistent with the definitions of the term in the permitted facility and interim status facility standards, would add clarity to the rule.

In the permitted facility and interim status facility standards, the definition of “substantial business relationship” uses the active voice in identical terms, as follows:

- h) “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. “Applicable state law,” as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration. 35 Ill. Adm. Code 724.241(h) and 725.241(h).

For the sake of consistency and clarity, the Board has conformed the definition of “substantial business relationship” in 35 Ill. Adm. Code 727.240(d)(8) to be consistent with the definitions of the same term that appear in 35 Ill. Adm. Code 724.241(h) and 725.241(h). This follows the consistency in the definitions of the term in 40 C.F.R. 264.141(h), 265.141(h), and 267.141(h).

The Board requests comment on the revisions to the definition of “substantial business relationship” in the Standardized Permit Rule to conform that definition with the definitions of the same term in the financial assurance requirements of the permitted facility standards and the interim status facility standards.

Availability of “Implicit Price Deflator for Gross Domestic Product.” The closure financial assurance rules require a facility owner or operator to annually adjust the closure cost estimate. The rules allow use of the document, “Implicit Price Deflator for Gross Domestic Product,” which is published and updated monthly by the U.S. Department of Commerce. The present amendments append a Board note to 35 Ill. Adm. Code 727.240(c)(2) that more fully identifies the table as “Table 1.1.9 in the National Income and Product Account Tables” and recites the on-line availability of the table.

The Board requests comment on the appended Board note that clarifies the identity and availability of the U.S. Department of Commerce document entitled, “Implicit Price Deflator for Gross Domestic Product.”

Designation of Forms for Establishing Financial Assurance. The federal financial assurance requirements in the Standardized Permit Rules specify the content of all financial assurance instruments. The State requirements follow their federal counterparts. The following table outlines the content specified in the various segments of the financial assurance requirements:

Financial Assurance: Mechanism Federal Citation/ Illinois Citation	Wording Specified Federal Citation/ Illinois Citation
Financial Assurance for Closure: Trust Agreement 40 C.F.R. 267.143(a)(5)/ 35 Ill. Adm. Code 727.240(d)(1)(E)	Trust Agreement 40 C.F.R. 264.151(a)(1)/ 40 C.F.R. 264.151(a)(1)*
Financial Assurance for Closure: Surety Bond Guaranteeing Payment into a Closure Trust Fund 40 C.F.R. 267.143(b)/ 35 Ill. Adm. Code 727.240(d)(2)	Financial Guarantee Bond 40 C.F.R. 264.151(b)/ 40 C.F.R. 264.151(b)*
Financial Assurance for Closure: Surety Bond Guaranteeing Performance of Closure 40 C.F.R. 267.143(c)/ 35 Ill. Adm. Code 727.240(d)(3)	Performance Bond 40 C.F.R. 264.151(c)/ 40 C.F.R. 264.151(c)*
Financial Assurance for Closure: Closure Letter of Credit 40 C.F.R. 267.143(d)/ 35 Ill. Adm. Code 727.240(d)(4)	Irrevocable Standby Letter of Credit 40 C.F.R. 264.151(d)/ 40 C.F.R. 264.151(d)*
Financial Assurance for Closure: Certificate of Insurance 40 C.F.R. 267.143(e)/ 35 Ill. Adm. Code 727.240(d)(5)	Certificate of Insurance for Closure or Post-Closure Care 40 C.F.R. 264.151(e)/ 40 C.F.R. 264.151(e)*

Financial Assurance for Closure: Corporate
Guarantee
40 C.F.R. 267.143(g)(1)/
35 Ill. Adm. Code 727.240(d)(7)(A)

Certificate of Insurance for
Closure or Post-Closure Care
40 C.F.R. 264.151(h)/
40 C.F.R. 264.151(h)*

Liability Coverage: Trust Fund for Liability
Coverage
40 C.F.R. 267.147(a)(1)/
35 Ill. Adm. Code 727.240(h)(1)(A)

Trust Agreement
264.147(j)(4): 264.151(m)/
724.247(j)(4): 724.251: 264.151*

Liability Coverage: Surety Bond for Liability
Coverage
40 C.F.R. 267.147(a)(2)/
35 Ill. Adm. Code 727.240(h)(1)(B)

Payment Bond
264.147(i)(3): 264.151(l)/
724.247(i)(3): 724.251: 264.151*

Liability Coverage: Letter of Credit for Liability
Coverage
40 C.F.R. 267.147(a)(3)/
35 Ill. Adm. Code 727.240(h)(1)(C)

Standby Trust Agreement
264.147(h)(5): 264.151(n)/
724.247(h)(5): 724.251(n):
264.151*

Liability Coverage: Insurance for Liability
Coverage
40 C.F.R. 267.147(a)(4)/
35 Ill. Adm. Code 727.240(h)(1)(D)

Hazardous Waste Facility Liability
Endorsement
264.147(a)(1)(i): 264.151(i)/
724.247(a)(1)(A): 724.251:
264.151*

Liability Coverage: Financial Test for Liability
Coverage
40 C.F.R. 267.147(f)(2)(i)(A)/
35 Ill. Adm. Code 727.240(p)(1)(A)

Letter from Chief Financial
Officer
264.151(g), 267.151(a),
267.151(b)/
727.Appendix A, Illustration A,
727.Appendix A, Illustration B

Liability Coverage: Guarantee for Liability
Coverage
40 C.F.R. 267.147(g)(1), (g)(2)(i)/
35 Ill. Adm. Code 727.240(h)(7)(A)

Guarantee for Liability Coverage
264.151(h)(2)/
264.151(h)(2)*

* Denotes federal provision incorporated by reference.

The Board is proposing to require the Agency to promulgate forms for use in establishing financial assurance. Thus, the Board has added 35 Ill. Adm. Code 727.240(l)(3), which requires the Agency to designate standardized forms based on 40 C.F.R. 267.151, making changes in the federal forms that are necessary to accommodate Illinois law. The provision requires use of the Agency-designated forms, and requires the Agency to reject forms other than its own designated standardized forms.

It is the Board's present understanding that the Agency currently provides the needed forms to regulated entities and requires the use of those forms. This provision will allow the Agency to deviate from the federal language of the various forms (in consultation with USEPA) should deviation be deemed necessary to accommodate Illinois law.

Ancillary to this added provision, the Board is revising the several segments of the rules that specify the forms that a regulated entity is to use. As revised, the several provisions that require use of a specific form with the requirement that the particular form "designated by the Agency pursuant to subsection (l)(3) of this Section." See proposed amendments to 35 Ill. Adm. Code 727.240(d)(1)(E), (d)(2), (d)(3), (d)(4), (d)(5), (d)(7)(A), (h)(7)(A), (i)(1), (l)(1), (l)(2), (p)(1)(A). The Board is not removing the forms in Illustrations A and B in Appendix A to 35 Ill. Adm. Code 727 at this time.

The Board requests comment on the revisions to the financial assurance provisions in the Standardized Permit Rule that would allow the Agency to designate forms for the various financial assurance mechanisms that are based on the appropriate USEPA-designated forms. The Board further requests comment on whether alteration of the USEPA-designated language for the mechanisms has ever been necessary or desirable to accommodate unique features of Illinois law.

Deletion of Section 727.240(d)(6)(C). The Standardized Permit Rule financial assurance requirements include 35 Ill. Adm. Code 727.240(d)(6)(C), which directs attention to 35 Ill. Adm. Code 727.240(o) for "terms of the guarantee." An appended board note explains the movement of text derived from corresponding 40 C.F.R. 267.143(f)(3) to subsection (o). There is no corresponding 40 C.F.R. 267.143(f)(3), and 35 Ill. Adm. Code 727.240(o) contains text derived from 40 C.F.R. 267.143(g)(3), moved from 35 Ill. Adm. Code 727.240(f)(7)(C).

The Board has removed 35 Ill. Adm. Code 727.240(d)(6)(C) and the appended Board note. The Board corrected the Board note appended to 35 Ill. Adm. Code 727.240(o) to refer to the text as originating from 40 C.F.R. 267.143(g)(3) and that citations to subsections (d), (d)(7), and (d)(7)(C) include subsection (o).

The Board requests comment on the removals of 35 Ill. Adm. Code 727.240(d)(6)(C) and the appended Board note and the corrections to the Board note appended to 35 Ill. Adm. Code 727.240(o).

Corrected Reference to Federal SPCC and Contingency Plan Regulations—Section 739.152. Contingency plan and emergency procedures are important segments of the requirements that apply to used oil processors. See 40 C.F.R. 279.52(a) and (b) (2012). When adopting the Recycled Used Oil Management Standards, USEPA recognized that regulated facilities would be subject to existing contingency plan and emergency procedures requirements under other bodies of regulations. USEPA stated (in pertinent part) as follows in the preamble discussion:

e, SPCC Program. Today's rule regulates the storage of used oils in aboveground tanks and containers. Used oils stored in underground storage tanks remain

subject to the standards of 40 CFR part 280. * * * [T]he Spill Prevention Control and Countermeasure (SPCC) regulations . . . are codified at 40 CFR part 112. . . . [P]ersons and facilities storing used oil may already be subject to the SPCC regulations. * * *

In addition, the National Oil and Hazardous Substance Contingency Plan (NCP) at 40 CFR part 300) requires removal of oil forming a sheen on surface water * * * When today's used oil management standards become effective, the aboveground used oil storage and processing tanks and containers located at used oil transfer facilities owned or operated by used oil collectors/ transporters, used oil processing and re-refining facilities, and off-specification used oil burner sites will be subjected to the RCRA section 3014 requirements. These used oil handlers also will be subject to the applicable SPCC regulations in 40 CFR part 112. 57 Fed. Reg. 41566, 41582 (footnote omitted); *see* 57 Fed. Reg. at 41586, 41596 (discussion used oil processing facilities).

USEPA stated further, as follows:

d. Contingency Plan and Emergency Procedures, Section 279.52(b) requires owners or operators of used oil processing and re-refining facilities to prepare a contingency plan designed to minimize hazards in case of a sudden or non-sudden release, fire, explosion, or similar emergency. * * *

EPA believes that the majority of processing and re-refining facilities have contingency plan and emergency procedures in place as a part of good business and operational procedures. * * * 57 Fed. Reg. at 41594 (Sept. 10, 1992).

USEPA acknowledged the potential applicability of contingency plan and emergency procedures requirements in the used oil processor standards. The used oil processor facility standards require a facility owner or operator to assemble a contingency plan. 35 Ill. Adm. Code 739.152(b)(1)(A) (corresponding with 40 C.F.R. 279.52(b)(1)(i)). The standards, however, allow the owner or operator to satisfy elements of the used and waste oil requirements by using any existing contingency plan and emergency procedures already developed for its facility under other bodies of regulations. 35 Ill. Adm. Code 739.152(b)(2)(B) (corresponding with 40 C.F.R. 279.52(b)(2)(ii)). The federal rule states as follows:

(ii) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or part 1510 of chapter V of this title, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this part. 40 C.F.R. 279.52(b)(2)(ii) (2012) (corresponding with 35 Ill. Adm. Code 739.152(b)(2)(B)).

In 1994 amendments, noting that the citations to 40 C.F.R. 1510 were obsolete, the Board corrected citations to 40.C.F.R. 300, as stated in the following passage of discussion:³

Formerly codified at federal part 1510, U.S. EPA redesignated those regulations as 40 CFR 300 on July 16, 1982, at 47 Fed. Reg. 31202. U.S. EPA never updated the references to the SPCC regulations contained in the hazardous waste rules. In fact, when U.S. EPA added part 279, on September 10, 1992, it used the invalid references to the SPCC rules.

Upon further examination of the texts of 40 C.F.R. 279.52(b)(2)(ii) and 35 Ill. Adm. Code 739.152(b)(2)(B) in light of the *Federal Register* preamble discussion of the Recycled Used Oil Management Standards, the Board believes that the language is flawed. Initially, the requirements of 40 C.F.R. 300 are not SPCC requirements, as the language tends to imply. Under 40 C.F.R. 300, various federal, state, and local governmental agencies work together to prepare three tiers of remediation plans: the National Contingency Plan (NCP), regional contingency plans, and area contingency plans. *See* 40 C.F.R. 300.210. Second, USEPA intended to embrace any contingency plan and emergency procedures developed under any body of regulations—so far as the contingency plan and emergency procedures fulfill the requirements of 40 C.F.R. 279.52(b). *See* 40 C.F.R. 279.52(b)(2)(B) (2012). In addition to SPCC plans and 40 C.F.R. 300, USEPA specifically discussed the corrective action and closure requirements in subparts F and G of 40 C.F.R. 280 for underground storage tanks. 57 Fed. Reg. at 41596.

The Board believes that alternative language would more fully embrace USEPA's intent to allow dovetailing of contingency plan and emergency procedures at a facility. The Board has revised 35 Ill. Adm. Code 739.152(b)(2)(B) to accommodate what USEPA intended over what USEPA stated, as follows:

- B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 ~~or 40 CFR 300~~, or some other emergency or contingency plan exists for the facility under federal, state, or local regulation (e.g., federal 40 CFR 300 or 40 C.F.R. 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.

³ Although USEPA retained the obsolete citation to 40 C.F.R. 1510 in the rule language, the 1992 *Federal Register* preamble discussion of the adopted version of the Recycled Used Oil Management Standards used the updated citation to 40 C.F.R. 300. *See* 57 Fed. Reg. at 41582. In 2010, USEPA removed citations to 40 C.F.R. 1510 from 40 C.F.R. 264.52(b), 264.56(d)(2), 265.52(b), and 265.56(d)(2). 75 Fed. Reg. 12989 (March 18, 2010). The Board made corresponding changes to corresponding 35 Ill. Adm. Code 724.152(b), 724.156(d)(2), 725.152(b), and 725.156(d)(2) in RCRA Subtitle C Update, USEPA Amendments (January 1, 2010 through June 30, 2010), R11-2, RCRA Subtitle C Update, USEPA Regulations (July 1, 2010 through December 31, 2010), R11-16 (Aug. 18, 2011) (consolidated).

This language will more clearly allow use of existing SPCC Plans or contingency plans to comply with the facility contingency plan requirements of the Recycled Used Oil Management Standards.

The Board requests comments on the revisions to the contingency plan and emergency procedures provision in 35 Ill. Adm. Code 739.152(b)(2)(B) to clarify the 40 C.F.R. 300 relates to contingency plan requirements, not SPCC plan requirements, and that USEPA intended the use of all types of contingency plan and emergency procedures that can be tailored to comply with the requirements of 35 Ill. Adm. Code 739.152(b)(2).

Corrected Spelling of a Chemical Name—Appendix E to Part 726. The Board has determined that a chemical name in Appendix E to 35 Ill. Adm. Code 726 is misspelled. The name, “1,2-dibromo-3-chloropropanef,” should appear as “1,2-dibromo-3-chloropropane.” The spelling error occurred in RCRA Subtitle C Update, USEPA Amendments (January 1, 2012 through June 30, 2012), R13-5 (Jan. 24, 2013). This correction is based on a comment submitted by JCAR staff.

The Board requests comments on the corrected spelling of the chemical name, “1,2-dibromo-3-chloropropane.”

Historical Summaries of the RCRA Subtitle C and UIC Regulations

While the Board formerly included a recitation of a historical summary of the Illinois RCRA Subtitle C and underground injection control (UIC) regulations and programs in the opinion segment of every update to these regulations. The Board ended that practice in RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7 (Apr. 19, 2012). As a result, no historical summary appears as a segment of this opinion and order. Persons wishing to review the historical summary of the Illinois RCRA Subtitle C and UIC regulations and programs as it stood on December 31, 2011 must consult the Board’s website to do so.

General Explanations of Board Deviation from the Literal Text of Federal Rules

When incorporating the federal rules into the Illinois system, the Board cannot always follow their literal text. Some deviation from the literal federal text is unavoidable. There are a variety reasons that copying the federal text is not possible.

Deviation arises through differences between the federal and state regulatory structure and systems. In Illinois, the responsibilities are divided among several entities—principally between the Board and the Agency.⁴ *See* 415 ILCS 5/4 and 5 (2012). The scope of the

⁴ Many other State agencies have some role to play in many functions under the Environmental Protection Act: the Department of Commerce and Community Affairs (*see* 415 ILCS 5/22, 22.23, 22.34, 25, 27, 55, 55.2, 55.6, 55.7, 55.14, 55.14a, and 55.15 (2012)), the Department of Natural Resources (*see* 415 ILCS 5/17.1-17.3, 27, and 55.6 (2010)), the Department of

particular identical-in-substance mandate may not embrace all aspects of the USEPA action involved in a particular proceeding. Further, the Illinois environmental regulations are organized differently than are the more extensive rules of USEPA, sometimes requiring the Board to adapt many of the federal requirements into segments of the Illinois rules. Finally, the Board must comply with the Illinois Administrative Procedure Act (5 ILCS 100 (2012)) and codification requirements of the Office of the Secretary of State (1 Ill. Adm. Code 100) when incorporating the federal requirements.

Another source of deviation from the literal federal text of a rule relates to updating incorporations by reference and references and source-citations to federal rules. Sometimes this involves federal rules that are part of the USEPA action that prompts the Board amendments. The Board has incorporated many segments of USEPA rules by reference, so that updating the references completes the amendments without use of the literal text of federal amendments. At other times, the deviation is the result of updated federal regulations that are not directly involved in an underlying USEPA action within the timeframe of the docket. The Board has incorporated federal regulations not directly involved by reference because USEPA has cited to unrelated USEPA rules or rules of other federal agencies. As a result, the Board routinely examines federal regulations that are incorporated by reference or source-cited in the Illinois rules and updates the references and citations to ensure reliance on the most recent versions, unless incorporation of an earlier version is required.

Some deviation also arises through errors in and problems with the federal text itself. The language of many federal rules differs stylistically from the Board's preferences. The Board also sometimes finds segments of federal text that are less than clear or which contain errors. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors found in the text in the course of these routine update rulemakings.

The following discussion segments explain in broad terms some of the changes to the literal text of federal rules that the Board makes on a more routine basis. What follows are general consideration of deviation from the literal text of federal rules that are prompted by three sources: (1) the divisions of authority between the Board and Agency under the Act; (2) routine updating of incorporations by reference of and citations to the *Code of Federal Regulations*; and (3) stylistic changes, clarifications, and corrections routinely made.

The Board will not further discuss changes prompted by three other causes: (1) differences in regulatory structure; (2) the scope of an identical-in-substance mandate, or (3)

Agriculture (*see* 415 ILCS 5/14.3, 14.6, 22.2, 22.34, 22.35, 39.4, and 55.6 (2012)), the Illinois Department of Transportation (*see* 415 ILCS 5/3.135, 22.51, 39, and 39.2 (2012)), the Office of the State Fire Marshall (*see* 415 ILCS 5/22.12, 57.3-57.6, 57.9, and 57.11 (2012)), the Illinois Emergency Management Agency (*see* 415 ILCS 5/13.6, 25a-1, 25b, and 57.5 (2012)), the Department of Public Health (*see* 415 ILCS 5/13.2, 22.55, 25d-6, 55.2, and 55.6 (2012)), and the Department of Labor (*see* 415 ILCS 5/52 (2012)). Although the Board must remain mindful of the roles of every State agency in a particular subject matter area, the major divisions of authority of concern in identical-in-substance proceedings are those between the Board and the Agency.

Illinois rulemaking procedure and codification requirements. The Board includes discussion of deviation caused by these considerations in substantive segments of opinions when issues arise.

Agency or Board Action. Section 7.2(a)(5) of the Act requires the Board to specify those portions of the program over which USEPA will retain decision making authority. Based on the general division of functions within the Act and other Illinois statutes, the Board is also to specify which State agency is to make decisions.

In situations in which the Board has determined that USEPA will retain decision-making authority, the Board has replaced “Regional Administrator” with USEPA, so as to avoid specifying which office within USEPA is to make a decision.

In some identical-in-substance rules, certain decisions pertaining to a permit application are not appropriate for the Agency to consider. In determining the general division of authority between the Agency and the Board, the following factors should be considered:

1. Whether the entity making the decision is applying a Board regulation, or taking action contrary to, *i.e.*, “waiving,” a Board regulation. It generally takes some form of Board action to “waive” a Board regulation.
2. Whether there is a clear standard for action such that the Board can give meaningful review to an Agency decision.
3. Whether the action would result in exemption from the permit requirement itself. If so, Board action is generally required.
4. Whether the decision amounts to “determining, defining or implementing environmental control standards” within the meaning of Section 5(b) of the Act. If so, it must be made by the Board.

There are four common classes of Board decisions: variance, adjusted standard, general and site-specific rulemaking, and enforcement. The first three are methods by which a regulation can be temporarily postponed (variance) or adjusted to meet specific situations (adjusted standard or site-specific rulemaking). There often are differences in the nomenclature for these decisions between the USEPA and Board regulations.

Routine Board Stylistic Changes, Clarifications, and Corrections. In addition to the amendments derived from federal amendments, the Board often makes necessary alterations in the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the *Illinois Administrative Code*.

The Board substituted “or” for “/” in most instances where this appeared in the federal base text, using “and” where more appropriate. The Board further used this opportunity to make

a number of corrections to punctuation, grammar, spelling, and cross-reference format throughout the opened text. The Board changed “who” to “that” and “he” or “she” to “it,” where the person to which the regulation referred was not necessarily a natural person, or to “he or she,” where a natural person was evident; changed “which” to “that” for restrictive relative clauses; substituted “must” for “shall”; capitalized the section headings and corrected their format where necessary; and corrected punctuation within sentences.

In addition, the federal rules have been edited to establish a uniform usage throughout the Board’s regulations. For example, with respect to “shall,” “will,” and “may,” “must” is used when an action is required by the rule, without regard to whether the action is required of the subject of the sentence or not. “Shall” is no longer used, since this word is not used in everyday language. Thus, where a federal rule uses “shall,” the Board substitutes “must.” This is a break from our former practice where “shall” was used when the subject of a sentence has a duty to do something. “Will” is used when the Board obliges itself to do something. “May” is used when choice of a provision is optional. “Or” is used rather than “and/or,” and denotes “one or both.” “Either . . . or” denotes “one but not both.” “And” denotes “both.”

The Joint Committee on Administrative Rules has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has decided to refer to the United States Environmental Protection Agency as “USEPA.” The Board will continue this conversion in future rulemakings as additional sections become open to amendment. The Board will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid in the location of these alterations and to briefly outline their intended purpose. These are explained in the introductory paragraph of the following opinion segment.

**Tables of Deviations from the Federal Text and
Corrections to and Clarifications of the Base Text**

The tables below list numerous corrections and amendments that are not based on current federal amendments. Table 1 (beginning immediately below) outlines federal amendments of June 13, 2011 that are not necessary in this docket, with summary explanation why the Board need take no action with regard to each. Table 2 (beginning immediately after Table 1 on page 39) includes deviations made in this proposal for public comment from the verbatim text of the federal amendments. Table 3 (beginning immediately after Table 2 on page 40) contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in Table 3 are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 9 of this opinion.

**Table 1:
Summary List of USEPA Suggested Corrections**

Provision Citations 35 Ill. Adm. Code/ 40 C.F.R.	Board Action
703.241(a)(3)/ 270.32(b)(3)	Corrected the cross reference “35 Ill. Adm. Code 724 or 725” to “35 Ill. Adm. Code 724 or 726.”
722.110(d) and (e)/ 262.10(d) and (e)	No correction was necessary; a 2006 amendment restored the texts of subsections (d) and (e).
722.111(d)/ 262.11(d)	Corrected the cross-reference “35 Ill. Adm. Code 724 through 728, and 733” to “35 Ill. Adm. Code 721, 724 through 728, and 733.”
722.180(a)/ 262.80(a)	No correction was necessary; a 2011 amendment added a definition of “waste hazardous under U.S. national procedures” to 35 Ill. Adm. Code 722.181 that includes the “or” formerly omitted.
722.185(g)/ 262.85(g)	The suggested correction was not necessary; the Board could find no direct indication that USEPA intended retention of the federal citations to 40 C.F.R. 2.203(b) and 260.2 over citations to comparable State provisions. The Board made an alternative correction to 35 Ill. Adm. Code 720.102(b) and 722.185(g) to more fully reflect the elements in corresponding 40 C.F.R. 260.2(b) and 262.85(g).
724.930(c) Board note/ 264.1030(c) note	Removed the cross-reference to 35 Ill. Adm. Code 722.134 from the text of the note.
724.989(f)(1)/ 264.1089(f)(1)	Corrected the cross-reference “Section 724.982(c)(1) or (c)(2)(A) through (c)(2)(E)” to “Section 724.982(c)(1) or (c)(2)(A) through (c)(2)(F).”
724.989(i)(2)(B)/ 264.1089(i)(2)(ii)	Corrected “tank” to “container.”
724.989(i)(3)(B)/ 264.1089(i)(3)(ii)	Corrected “tanks” to “containers.”
725.985(f)(3)(A)(iv)/ 265.1085(f)(3)(i)(D)	Corrected the cross-reference “subsection (f)(4)(D) of this Section” to “subsection (f)(3)(D) of this Section.”
725.990(a)/ 265.1090(a)	Corrected the cross-reference “subsection (j) of this Section” to “subsections (i) and (j) of this Section.”

725.990(g)/ 265.1090(g)	Corrected the cross-reference “Section 725.985(l)” to “Section (l) or 725.986(g).”
726.200(b)(4)/ 266.100(b)(4)	Corrected the reference “40 CFR 63.1216(e)” to “40 CFR 63.1216(e) and 63.1218.”
727.240(k)(1)/ 267.150(a)	Rather than substitute “the Regional Administrator” for “the Agency,” the Board has substituted “USEPA Region 5” (twice), “USEPA has stated that USEPA Region 5 will” for “the Agency must”, and “USEPA has stated that USEPA Region 5” for the Agency” (three times).
728.144/ 268.44	The Board has replaced all references to the Board granting an adjusted standard to USEPA granting a variance, including several shifts in the text to accommodate the shift from first-person to third-person, the changing the Board note explanation of the shift from “variance” granted by USEPA and adjusted standard granted by the Board, which was appended to 35 Ill. Adm. Code 728.144(a), to an explanation that USEPA has reserved to itself the authority to grant a variance from a treatment standard, and the removal of a Board note explanation of treatment of a treatability exception.

**Table 2:
Deviations from the Literal Text of the Federal Regulations
Being Corrected at the Request of USEPA**

Illinois Section	40 C.F.R. Section	Revision(s)
720.102(b)	260.2(b)	Changed “EPA” to “the Board or the Agency” (twice); changed “parts 260 through 266 and 266 of this chapter” to “this Part or 35 Ill. Adm. Code 721 through 728”; changed “§ 2.203(b) of this chapter” to “35 Ill. Adm. Code 130”; changed “part 2, subpart B, of this chapter” to “35 Ill. Adm. Code 130.” See the entry in Table 3 below.
727.240(k)(1)	267.150(a)	Changed “the Regional Administrator” to “USEPA Region 5” (twice); changed “the Regional Administrator” to “USEPA has stated that USEPA Region 5” (four times). See the entry in Table 1 above.

728.144 heading	268.44 heading	Added “USEPA” before “variance.” See the entry for 728.144 in Table 1 above.
728.144(a)	268.44(a)	Changed “the Administrator” to “USEPA has stated that it.” See the entry for 728.144 in Table 1 above.
728.144(d)	268.44(d)	Changed “the Administrator” to “USEPA has stated that it.” See the entry for 728.144 in Table 1 above.
728.144(e)	268.44(e)	Added “USEPA has stated that.” See the entry for 728.144 in Table 1 above.
728.144(h)	268.44(h)	Changed “the Administrator” to “USEPA has stated that it.” See the entry for 728.144 in Table 1 above.
728.144(h)(3)	268.44(h)(3)	Added “USEPA has stated that.” See the entry for 728.144 in Table 1 above.
728.144(h)(3)(A)	268.44(h)(3)(i)	Moved the introductory clause at the end of 40 C.F.R. 268.44(h)(3) to the beginning of this subsidiary subsection; added “USEPA has stated that”; changed plural “treatment variances” to singular “a treatment variance”; changed “this paragraph” to “40 CFR 268.44(h)(3).” See the entry for 728.144 in Table 1 above.
728.144(h)(3)(B)	268.44(h)(3)(ii)	Moved the introductory clause at the end of 40 C.F.R. 268.44(h)(3) to the beginning of this subsidiary subsection; added “USEPA has stated that”; changed plural “treatment variances” to singular “a treatment variance”; changed “this paragraph” to “40 CFR 268.44(h)(3).” See the entry for 728.144 in Table 1 above.
728.144(h)(5)	268.44(h)(5)	Added “USEPA has stated that.” See the entry for 728.144 in Table 1 above.

728.144(j)	268.44(j)	Changed “the Assistant Administrator” to “USEPA”; omitted the parenthetical “or his delegated representative” and its offsetting commas; changed “which may be required” to “that USEPA determines are necessary.” See the entry for 728.144 in Table 1 above.
728.144(m)	268.44(m)	Changed “EPA” to “USEPA has stated that.” See the entry for 728.144 in Table 1 above.

**Table 3:
Board Housekeeping Amendments**

Section	Source	Revision(s)
703.141(c)(3)(C)	Board	Added a closing parenthesis mark after “Discrepancies.”
703.141 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.181 Board note	Board	Corrected “40 CFR 270.13” to “40 CFR 270.13(b), (e), (g), (h) through (j), and (n)””; updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.183(k) Board note	Board	Added explanation of codification of the provision in a separate Section, including explanation of material omitted.
703.183 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.241(a)(3)	USEPA	Corrected “35 Ill. Adm. Code 724 or 725” to “35 Ill. Adm. Code 724 or 726.”
703.183(a) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
703.183(b) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.

703.280(l)	Board	Replaced the provision relative to facilities participating in the defunct Performance Track Program with an explanatory statement.
703.280 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(a) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(b) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(c) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(d) Board note	Board	Updated “35 Ill. Adm. Code 120” to “35 Ill. Adm. Code 130” (twice); updated “35 Ill. Adm. Code 120.305” to “35 Ill. Adm. Code 130.302”; updated “35 Ill. Adm. Code 120.201” to “35 Ill. Adm. Code 130.200.”
703.302(e)	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(e) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(f) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.302(g) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.306(d)(4) Board note	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” preceded by an offsetting comma.
703.306 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
703.Appendix A, ¶¶ O.1. and O.1.a. through O.1.d.	Board	Replaced the provisions relative to facilities participating in the defunct Performance Track Program with an explanatory statement.
703.Appendix A Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.

704.150(g)	Board	Removed the unnecessary version date, “(1993),” from the reference to 40 C.F.R. 136.3; removed the unnecessary version date, “(1992),” from the reference to appendix III of 40 C.F.R. 261.
704.150 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
704.187	Board	Corrected “as stated in Appendix C to 35 Ill. Adm. Code 261” to “or in appendix III of 40 CFR 261 (Chemical Analysis Test Methods)” and moved it before the parenthetical “each incorporated by reference in 35 Ill. Adm. Code 720.111(b)”; replaced the semicolon after “720.111(b)” to a comma.
704.187 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.102(a)	Board	Updated “35 Ill. Adm. Code 101.107 and 120” to “35 Ill. Adm. Code 130.”
720.102(b)	Board	Added the first two sentences of 40 C.F.R. 260.2, formerly omitted from the text. See the entry in Table 2 above.
720.104(a)(2)(B)(iii)	Board	Corrected “C.F.R.” to “CFR” (twice).
703.104(a) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
703.104(c) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
703.104(d) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
703.104(e) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.

703.104(g) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
703.104 Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
720.111(b), 10 C.F.R. 20.2006	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available; removed “702.110” and offsetting commas from the series.
720.111(b), Table II, column 2 in appendix B to 10 C.F.R. 20	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), appendix G to 10 C.F.R. 20	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 10 C.F.R. 71	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including addition of a <i>Federal Register</i> citation to later amendments.
720.111(b), 10 C.F.R. 71.5	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 33 C.F.R. 153.203	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 40 C.F.R. 3.2	Board	Removed the unnecessary incorporation by reference.
720.111(b), 40 C.F.R. 3.3	Board	Removed the unnecessary second closing parenthesis mark from “(2012).”
720.111(b), Appendix A to 40 CFR 60	Board	Added <i>Federal Register</i> citations for later amendments.
720.111(b), Appendix A to 40 CFR 60, Method 27	Board	Corrected “35 Ill. Adm. Code 724.987 and 725.987” to “35 Ill. Adm. Code 724.986 and 725.987.”

720.111(b), 40 CFR 61	Board	Corrected “35 Ill. Adm. Code 725.933, 725.964, and 725.980” to “35 Ill. Adm. Code “724.933, 724.964, 725.933, 725.964, and 725.980.”
720.111(b), 40 CFR 63	Board	Added <i>Federal Register</i> citations for later amendments; corrected “35 Ill. Adm. Code 725.933, 725.964, and 725.980” to “35 Ill. Adm. Code “724.933, 724.964, 725.933, 725.964, 725.980, and 726.200.”
720.111(b), subpart RR of 40 CFR 63	Board	Corrected “35 Ill. Adm. Code 724.982, 724.984, 724.985, 725.983, 725.985, and 725.986” to “35 Ill. Adm. Code “724.984, 724.985, 725.985, and 725.986.”
720.111(b), 40 CFR 260.21(b)	Board	Changed the document incorporated by reference from “40 CFR 260.21” to “40 CFR 260.21(b).”
720.111(b), appendix I to 40 CFR 260	Board	Removed the unnecessary incorporation by reference.
720.111(b), appendix VI to 40 CFR 264	Board	Corrected “35 Ill. Adm. Code 703.306 and 724.118” to “35 Ill. Adm. Code “703.306, 724.118, and 727.110.”
720.111(b), appendix V to 40 CFR 264	Board	Corrected “35 Ill. Adm. Code 725.277, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725” to “35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.”
720.111(b), appendix IX to 40 CFR 266, Section 5.0	Board	Corrected “35 Ill. Adm. Code 726.204” to “35 Ill. Adm. Code 726.204 and 726.206.”
720.111(b), 40 CFR 761	Board	Added <i>Federal Register</i> citations for later amendments.
720.111(b), 40 CFR 761.3	Board	Added <i>Federal Register</i> citations for later amendments.
720.111(b), 40 CFR 761.60	Board	Added <i>Federal Register</i> citations for later amendments.
720.111(b), 40 CFR 761.65	Board	Added <i>Federal Register</i> citations for later amendments.
720.111(b), subpart B of 49 C.F.R. 107	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.

720.111(b), 49 C.F.R. 171	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments; corrected “35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143” to “35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.”
720.111(b), subpart B of 49 C.F.R. 171.3	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 49 C.F.R. 171.8	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments.
720.111(b), subpart B of 49 C.F.R. 171.15	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), subpart B of 49 C.F.R. 171.16	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of <i>Federal Register</i> citations to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments; corrected “35 Ill. Adm. Code 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143” to “35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.”
720.111(b), 49 C.F.R. 172.304	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), subpart F of 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including addition of a <i>Federal Register</i> citation for later amendments.

720.111(b), 49 C.F.R. 173	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of <i>Federal Register</i> citations to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments; corrected “35 Ill. Adm. Code 721.104, 722.130, 724.986, 724.416, 725.987, 733.118, 733.138, 733.152, and 739.143” to “35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.”
720.111(b), 49 C.F.R. 173.2	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 49 C.F.R. 173.12	Board	Updated the Code of Federal Regulations citation to the latest edition available, including addition of a <i>Federal Register</i> citation for later amendments; corrected “35 Ill. Adm. Code 724.416, 724.986, and 725.987” to “35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.”
720.111(b), 49 C.F.R. 173.28	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available.
720.111(b), 49 C.F.R. 173.50	Board	Updated the Code of Federal Regulations citation to the latest edition available; corrected “35 Ill. Adm. Code 721.124” to “35 Ill. Adm. Code 721.123.”
720.111(b), 49 C.F.R. 173.54	Board	Updated the Code of Federal Regulations citation to the latest edition available; corrected “35 Ill. Adm. Code 721.124” to “35 Ill. Adm. Code 721.123.”
720.111(b), 49 C.F.R. 173.127	Board	Added the incorporation by reference that was previously missing.
720.111(b), 49 C.F.R. 174	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of <i>Federal Register</i> citations to amendments now included in that version.
720.111(b), 49 C.F.R. 175	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments.

720.111(b), 49 C.F.R. 176	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
720.111(b), 49 C.F.R. 177	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
720.111(b), 49 C.F.R. 178	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including addition of a <i>Federal Register</i> citation for later amendments.
720.111(b), 49 C.F.R. 179	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version and addition of a <i>Federal Register</i> citation for later amendments.
720.111(b), 49 C.F.R. 180	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
720.111(b), 49 C.F.R. 722.111(d)	USEPA	Updated the Code of Federal Regulations citation to the latest edition available; corrected “35 Ill. Adm. Code 724 through 728, and 733” to “35 Ill. Adm. Code 721, 724 through 728, and 733.”
722.185(g)	Board	Updated “35 Ill. Adm. Code 120” to “35 Ill. Adm. Code 130.”
724.930(c) Board note	USEPA	Corrected “35 Ill. Adm. Code 721.104, 722.134 and 724.101(g)” to “35 Ill. Adm. Code 721.104 and 724.101(g).”
724.980(b)(7)	Board	Added “each incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
724.986(e)(2)(A)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
724.989(d)(1)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.

724.930(f)(1)	USEPA	Corrected “Section 724.982(c)(1) or (c)(2)(A) through (c)(2)(E)” to “Section 724.982(c)(1) or (c)(2)(A) through (c)(2)(F).”
724.930(i)(2)(B)	USEPA	Corrected “tank” to “container.”
724.930(i)(3)(B)	USEPA	Corrected “tanks” to “containers.”
725.984(b)(3)(C)(i)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
725.984(b)(3)(C)(ii)	Board	Corrected “Method 301” to “Method 301 in appendix A to 40 CFR 63”; added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
725.984(b)(9)(C)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
725.985(f)(3)(iv)	USEPA	Corrected “subsection (f)(4)(D) of this Section” to “subsection (f)(3)(D) of this Section.”
725.987(e)(2)(A)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
725.990(a)	USEPA	Corrected “subsection (j) of this Section” to “subsections (i) and (j) of this Section.”
725.990(d)(1)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.
725.990(g)	USEPA	Corrected “Section 725.985(l)” to “Section 725.985(l) or 725.986(g).”
726.200(b)(4)	USEPA, Board	Corrected “40 CFR 63.1216(e)” to “40 CFR 63.1216(e) and 63.1218”; added “each” before “incorporated by reference.”
726.Appendix E, 1,2- “dibromo-3-chloro- propane”	JCAR	Corrected the spelling “1,2-dibromo-3-chloropropane” to “1,2-dibromo-3-chloropropane.”
727.110(a) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.

727.110(b) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(c)	Board	Added “Region 5” after “USEPA”; removed “following the USEPA notification procedures and”; changed “USEPA form 8700-12” to capitalized “USEPA Form 8700-12”; changed “may obtain information and required forms from the Agency of from USEPA Region 5” to “must obtain a copy of the form from the Agency, and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA Region 5.”
727.110(c) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(d) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(e) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(f) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(g) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(h) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.110(i)(1) Board note	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.

727.110(i) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(a) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(b)	Board	Changed capitalized “State” to lower-case “state”; changed “that a currently existing business relationship . . . is demonstrated to the satisfaction of the Agency” to “that the Agency can reasonably determine that a substantial business relationship currently exists . . . that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party”; added a definition of “applicable state law.”
727.240(b) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version; added “subsection (b)(8) is also derived from . . . (Sept. 1, 1988)”; added “the term ‘substantial business relationship’ . . . 725.241(h)”; added “any Agency determination . . . [415 ILCS 5/40].”
727.240(c)(2) Board note	Board	Added the Board note explanation of availability of the table of Deflators.
727.240(c) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(d)(1)(E)	Board	Changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (1)(3) of this Section.”
727.240(d)(2)	Board	Changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (1)(3) of this Section.”

727.240(d)(3)	Board	Changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(d)(4)	Board	Changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(d)(5)	Board	Changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section”
727.240(d)(6)(C)	Board	Removed the provision referencing subsection (o).
727.240(d)(6)(C)	Board	Removed the Board note explanation of movement of text to subsection (o).
727.240(d)(7)(A)	Board	Changed “in 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(d) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(h)(7)(A)	Board	Corrected “subsections (h)(6)(A) and (h)(6)(B)” to “subsections (h)(6)(A) and (h)(6)(B) of this Section”; changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(h) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.

727.240(i)(1)	Board	Corrected “subsections (h)(6)(A) and (h)(6)(B)” to “subsections (h)(6)(A) and (h)(6)(B) of this Section”; changed “specified at 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(i) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(k)(1)	USEPA, Board	Changed “the Agency” to “USEPA” (twice); changed “the Agency must” to “USEPA has stated that it will”; changed “the Agency” to “USEPA has stated that it” (three times).
727.240(k) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(l)(1)	Board	Added “forms for using the corporate financial test to demonstrate financial assurance for closure”; changed “set forth in Appendix A, Illustration A of the Part” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(l)(1) Board note	Board	Removed the explanation of codification of the form.
727.240(l)(2)	Board	Added “forms for using the corporate financial test to demonstrate financial assurance for third-party liability”; changed “set forth in Appendix A, Illustration B of the Part” to “designated by the Agency pursuant to subsection (l)(3) of this Section.”
727.240(l)(1) Board note	Board	Removed the explanation of codification of the form.
727.240(l)(3)	Board	Added the requirement that the Agency develop standardized forms.
727.240(l) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.

727.240(m)	Board	Added “for using the corporate financial test to demonstrate financial assurance for closure.”
727.240(m) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(n)	Board	Added “for using the corporate financial test to demonstrate financial assurance for closure.”
727.240(n)(1)(E) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(n) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(o)	Board	Added “for using the corporate financial test to demonstrate financial assurance for closure.”
727.240(o) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version; corrected “subsection (d), (d)(6), or (d)(6)(C) of this Section” to “subsection (d), (d)(7), or (d)(7)(C) of this Section.”
727.240(p)(1)(A)	Board	Corrected “Part 727 and 35 Ill. Adm. Code 724 or 725” to “Part 727”; changed “40 CFR 264.151(g), incorporated by reference in 35 Ill. Adm. Code 720.111(b)” to “designated by the Agency .”
727.240(p)(5)(A)	Board	Corrected lower-case “section” to capitalized “Section.”
727.240(p) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.
727.240(q) Board note	Board	Updated the <i>Code of Federal Regulations</i> citation to the latest edition available, including removal of a <i>Federal Register</i> citation to amendments now included in that version.

728 table of contents, 728.144 heading	Board	Changed “Adjustment of Treatment Standard” to “USEPA Variance from a Treatment Standard”
728.144 heading	USEPA, Board	Changed “Adjustment of Treatment Standard” to “USEPA Variance from a Treatment Standard”
728.144(a)	USEPA, Board	Changed “the Board will grant an adjusted standard” to “USEPA has stated that USEPA may approve a variance.”
728.144(a)(2) Board note	Board	Replaced the explanation that the Board grants adjusted standards from treatment standards with explanation that only USEPA can grant a variance from a treatment standard.
728.144(b)	USEPA	Changed “Subpart D of Ill. Adm. Code 104” to “40 C.F.R. 260.20.”
728.144(d)	USEPA, Board	Changed “the Board” to “USEPA”; added the formerly omitted statement from 40 C.F.R. 268.44(d): “Additional copies of the complete petition may be requested as needed to send to affected states and Regional Offices.”
728.144(e)	USEPA, Board	Changed “the Board” to “USEPA”; added the formerly omitted statement from 40 C.F.R. 268.44(e): “in the Federal Register of the intent to approve or deny a petition”; removed “as provided in Subpart D of 35 Ill. Adm. Code 104”; replaced “In conjunction with any updating . . . pursuant to this Section. A listing . . . each fiscal year. (Section 28.1(d)(3) of the Environmental Protection Act [415 ILCS 5/28.1(d)(3)])” with USEPA has stated that . . . in the Federal Register.”
728.144(h)	USEPA, Board	Changed “the Board will grant an adjusted standard” to “USEPA has stated that it may approve a site-specific variance.”
728.144(h)(3)	USEPA, Board	Changed “an adjusted standard from a treatment standard” to “USEPA has stated that a treatment variance”; changed “this subsection (h)(3)” to “40 CFR 268.44(h)(3).”
728.144(h)(3)(A)	USEPA, Board	Changed “the adjusted standard from a treatment standard” to “USEPA has stated that a treatment variance approved under 40 CFR 268.44(h)(3).”

728.144(h)(3)(B)	USEPA, Board	Changed “the treatment adjusted standard” to “USEPA has stated that a treatment variance approved under 40 CFR 268.44(h)(3).”
728.144(h)(5)	USEPA, Board	Replaced the statement, “The Board will . . . before granting or denying a petition.” with the text from 40 C.F.R. 268.44(h)(5): “USEPA has stated that public notice . . . before granting or denying a petition.”
728.144(i)	USEPA, Board	Changed “adjusted treatment standard” to “variance from a treatment standard”; changed “35 Ill. Adm. Code 720.120(b)(1) through (b)(4)” to “40 CFR 260.20(b)(1) through (b)(4).”
728.144(j)	USEPA, Board	Changed “a petition for a site-specific adjusted treatment standard” to “an application for site-specific variance from a treatment standard”; changed “the Board” to “USEPA” (twice).
728.144(k)	USEPA	Changed “adjusted treatment standard” to “variance.”
728.144(l)	USEPA	Changed “adjusted treatment standard” to “variance.”
728.144(m)	USEPA, Board	Changed “adjusted treatment standard” to “variance” (twice); changed “the Board” to “USEPA has stated that it”; changed “adjusted standard” to “treatment variance”; changed “Sections 728.120 through 728.123” to “40 CFR 266.20 through 266.23.”
728.144(p)	Board	Changed “if” to “after.”
728.144(p) Board note	Board	Removed the explanation that the Board will adopt a treatability exception in a RCRA update.
739.142(b)(1)	Board	Added “and the Agency.”
739.142(b)(1)(A)	Board	Removed “(To obtain ordering information. . . 703-920-9810)”; added “to USEPA Region 5 and the Agency.”
739.142(b)(1)(A) Board note	Board	Added explanation that the used oil transporter must obtain Form 8700-12 from the Agency.
739.142(b)(1)(B)	Board	Changed “USEPA, Region 5” to “USEPA Region 5”; added “and the Agency”; removed “(Call the RCRA/Superfund hotline . . . USEPA identification number).”
739.151(b)(1)	Board	Added “and the Agency.”

739.151(b)(1)(A)	Board	Removed “(To obtain ordering information. . . 703-920-9810)””; added “to USEPA Region 5 and the Agency.”
739.151(b)(1)(A) Board note	Board	Added explanation that the used oil processor or re-refiner must obtain Form 8700-12 from the Agency.
739.151(b)(1)(B)	Board	Added “USEPA Region 5 and the Agency””; removed “(Call the RCRA/Superfund hotline . . . USEPA identification number).”
739.152(b)(2)(B)	Board	Changed “a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or 40 CFR 300, or some other emergency or contingency plan” to “a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or some other emergency or contingency plan exists for the facility under federal, state, or local regulation (e.g., federal 40 CFR 300 or 40 C.F.R. 280).”
739.162(b)	Board	Added “and the Agency.”
739.162(b)(1)	Board	Removed “(To obtain ordering information. . . 703-920-9810)””; added “to USEPA Region 5 and the Agency.”
739.162(b)(1) Board note	Board	Added explanation that the used oil burner must obtain Form 8700-12 from the Agency.
739.162(b)(2)	Board	Added “to USEPA Region 5 and the Agency””; removed “Call the RCRA/Superfund hotline . . . USEPA identification number.”
739.173(b)	Board	Added “and the Agency.”
739.151(b)(1)	Board	Added “to USEPA Region 5 and the Agency.”
739.151(b)(1) Board note	Board	Added explanation that the used oil fuel marketer must obtain Form 8700-12 from the Agency.
739.151(b)(2)	Board	Added “to USEPA Region 5 and the Agency.”
739.181(b)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111(b)” with an offsetting comma.

ORDER

The Board directs the Clerk to provide notice in the *Illinois Register* of the following proposed amendments to the Illinois RCRA Subtitle C hazardous waste regulations at 35 Ill. Adm. Code 720, 721, and 726:

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

PART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	
703.100	Scope and Relation to Other Parts
703.101	Purpose
703.102	Electronic Reporting
703.110	References

SUBPART B: PROHIBITIONS

Section	
703.120	Prohibitions in General
703.121	RCRA Permits
703.122	Specific Inclusions in Permit Program
703.123	Specific Exclusions from Permit Program
703.124	Discharges of Hazardous Waste
703.125	Reapplying for a Permit
703.126	Initial Applications
703.127	Federal Permits (Repealed)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section	
703.140	Purpose and Scope
703.141	Permits by Rule
703.150	Application by Existing HWM Facilities and Interim Status Qualifications
703.151	Application by New HWM Facilities
703.152	Amended Part A Application
703.153	Qualifying for Interim Status
703.154	Prohibitions During Interim Status
703.155	Changes During Interim Status
703.156	Interim Status Standards
703.157	Grounds for Termination of Interim Status
703.158	Permits for Less Than an Entire Facility
703.159	Closure by Removal

- 703.160 Procedures for Closure Determination
- 703.161 Enforceable Document for Post-Closure Care

SUBPART D: APPLICATIONS

- Section
- 703.180 Applications in General
- 703.181 Contents of Part A
- 703.182 Contents of Part B
- 703.183 General Information
- 703.184 Facility Location Information
- 703.185 Groundwater Protection Information
- 703.186 Exposure Information
- 703.187 Solid Waste Management Units
- 703.188 Other Information
- 703.189 Additional Information Required to Assure Compliance with MACT Standards
- 703.191 Public Participation: Pre-Application Public Notice and Meeting
- 703.192 Public Participation: Public Notice of Application
- 703.193 Public Participation: Information Repository
- 703.200 Specific Part B Application Information
- 703.201 Containers
- 703.202 Tank Systems
- 703.203 Surface Impoundments
- 703.204 Waste Piles
- 703.205 Incinerators that Burn Hazardous Waste
- 703.206 Land Treatment
- 703.207 Landfills
- 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste
- 703.209 Miscellaneous Units
- 703.210 Process Vents
- 703.211 Equipment
- 703.212 Drip Pads
- 703.213 Air Emission Controls for Tanks, Surface Impoundments, and Containers
- 703.214 Post-Closure Care Permits

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703.APPENDIX A Classification of Permit Modifications

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 R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11672, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18505, effective November 12, 2010; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section 703.141 Permits by Rule

Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 705, the following must be deemed to have a RCRA permit if the conditions listed are met:

- a) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel that accepts hazardous waste for ocean disposal, if the owner or operator does the following:
 - 1) It has a permit for ocean dumping issued by USEPA under 40 CFR 220;
 - 2) It complies with the conditions of that permit; and
 - 3) It complies with the following hazardous waste regulations:
 - A) 35 Ill. Adm. Code 724.111 (USEPA Identification Number);
 - B) 35 Ill. Adm. Code 724.171 (Use of Manifest System);
 - C) 35 Ill. Adm. Code 724.172 (Manifest Discrepancies);
 - D) 35 Ill. Adm. Code 724.173(a) and (b)(1) (Operating Record);
 - E) 35 Ill. Adm. Code 724.175 (Biennial Report); and
 - F) 35 Ill. Adm. Code 724.176, (Unmanifested Waste Report).
- b) Injection wells. The owner or operator of an underground injection well disposing of hazardous waste, if the owner or operator fulfills the following conditions:
 - 1) It has a permit for underground injection issued under 35 Ill. Adm. Code 704; and
 - 2) It complies with the conditions of that permit and the requirements of Subpart F of 35 Ill. Adm. Code 704 (requirements for wells managing hazardous waste); and
 - 3) For UIC permits issued after November 8, 1984, the following:
 - A) It complies with 35 Ill. Adm. Code 724.201; and
 - B) Where the UIC well is the only unit at the facility that requires a RCRA permit, it complies with Section 703.187.

- c) Publicly owned treatment works (POTW). The owner or operator of a POTW that accepts for treatment hazardous waste, if the owner or operator fulfills the following conditions:
- 1) It has an NPDES permit;
 - 2) It complies with the conditions of that permit;
 - 3) It complies with the following regulations:
 - A) 35 Ill. Adm. Code 724.111 (Identification Number);
 - B) 35 Ill. Adm. Code 724.171 (Use of Manifest System);
 - C) 35 Ill. Adm. Code 724.172 (Manifest Discrepancies);
 - D) 35 Ill. Adm. Code 724.173(a) and (b)(1) (Operating Record);
 - E) 35 Ill. Adm. Code 724.175 (Annual Report);
 - F) 35 Ill. Adm. Code 724.176 (Unmanifested Waste Report); and
 - G) For NPDES permits issued after November 8, 1984, 35 Ill. Adm. Code 724.201 (Corrective Action for Solid Waste Management Units); and
 - 4) If the waste meets all federal, it complies with State and local pretreatment requirements that would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

BOARD NOTE: Illinois pretreatment requirements are codified in 35 Ill. Adm. Code 307 and 310.

BOARD NOTE: See 40 CFR 270.60-~~(2005)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATIONS

Section 703.181 Contents of Part A

In addition to the information in 35 Ill. Adm. Code 702.123, Part A of the RCRA application must include the following information:

- a) The latitude and longitude of the facility;

- b) The name, address, and telephone number of the owner of the facility;
- c) An indication of whether the facility is new or existing and whether it is a first or revised application;
- d) For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;
- e) For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;
- f) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items;
- g) A specification of the hazardous wastes listed or designated under 35 Ill. Adm. Code 721 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed of annually, and a general description of the processes to be used for such wastes.
- h) For hazardous debris, a description of the debris categories and containment categories to be treated, stored, or disposed of at the facility.

BOARD NOTE: Derived from 40 CFR ~~270.13 (2002)~~ 270.13(b), (e), (g), (h) through (j), and (n) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 703.183 General Information

The following information is required in the Part B application for all HWM facilities, except as 35 Ill. Adm. Code 724.101 provides otherwise:

- a) A general description of the facility;
- b) Chemical and physical analyses of the hazardous wastes and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information that must be known to treat, store, or dispose of the wastes properly in accordance with 35 Ill. Adm. Code 724;
- c) A copy of the waste analysis plan required by 35 Ill. Adm. Code 724.113(b) and, if applicable, 35 Ill. Adm. Code 724.113(c);

- d) A description of the security procedures and equipment required by 35 Ill. Adm. Code 724.114, or a justification demonstrating the reasons for requesting a waiver of this requirement;
- e) A copy of the general inspection schedule required by 35 Ill. Adm. Code 724.115(b). Include where applicable, as part of the inspection schedule, specific requirements in 35 Ill. Adm. Code 724.274, 724.293(i), 724.295, 724.326, 724.354, 724.373, 724.403, 724.702, 724.933, 724.952, 724.953, 724.958, 724.984, 724.985, 724.986, and 724.988;
- f) A justification of any request for a waiver of the preparedness and prevention requirements of Subpart C of 35 Ill. Adm. Code 724;
- g) A copy of the contingency plan required by Subpart D of 35 Ill. Adm. Code 724;

BOARD NOTE: Include, where applicable, as part of the contingency plan, specific requirements in 35 Ill. Adm. Code 724.200 and 724.327. Corresponding 40 CFR 270.14(b)(7) refers to the requirements of 40 CFR 264.255 (corresponding with 35 Ill. Adm. Code 724.355), marked “reserved” by USEPA.

- h) A description of procedures, structures, or equipment used at the facility as follows:
 - 1) To prevent hazards in unloading operations (for example, ramps, or special forklifts);
 - 2) To prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, or trenches);
 - 3) To prevent contamination of water supplies;
 - 4) To mitigate effects of equipment failure and power outages;
 - 5) To prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and
 - 6) To prevent releases to the atmosphere;
- i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes, as required to demonstrate compliance with 35 Ill. Adm. Code 724.117, including documentation demonstrating compliance with 35 Ill. Adm. Code 724.117(c);
- j) A description of the area traffic pattern, the estimated traffic volume (number and types of vehicles), and area traffic control (for example, show turns across traffic

lanes and stacking lanes, if appropriate); a description of access road surfacing and load bearing capacity; and the locations and types of traffic control signals;

- k) Facility location information, as required by Section 703.184;

BOARD NOTE: The Board has codified 40 CFR 270.14(b)(11)(iii) through (b)(11)(v) (2005) as Section 703.184(c) through (e) to comport with Illinois Administrative Code codification requirements. The Board did not include an equivalent to 40 CFR 270.14(b)(11)(i) and (b)(11)(ii), relating to certain seismic zones not located within Illinois.

- l) An outline of both the introductory and continuing training programs by the owner or operator to prepare persons to operate or maintain the HWM facility in a safe manner, as required to demonstrate compliance with 35 Ill. Adm. Code 724.116. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in 35 Ill. Adm. Code 724.116(a)(3);
- m) A copy of the closure plan and, where applicable, the post-closure plan required by 35 Ill. Adm. Code 724.212, 724.218, and 724.297. Include, where applicable, as part of the plans, specific requirements in 35 Ill. Adm. Code 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701, and 724.703;
- n) For hazardous waste disposal units that have been closed, documentation that notices required under 35 Ill. Adm. Code 724.219 have been filed;
- o) The most recent closure cost estimate for the facility, prepared in accordance with 35 Ill. Adm. Code 724.242, and a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.243. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B permit application;
- p) Where applicable, the most recent post-closure cost estimate for the facility, prepared in accordance with 35 Ill. Adm. Code 724.244, plus a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.245. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B permit application;
- q) Where applicable, a copy of the insurance policy or other documentation that comprises compliance with the requirements of 35 Ill. Adm. Code 724.247. For a new facility, documentation showing the amount of insurance meeting the specification of 35 Ill. Adm. Code 724.247(a) and, if applicable, 35 Ill. Adm. Code 724.247(b) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for an

alternative level of required coverage for a new or existing facility may be submitted as specified in 35 Ill. Adm. Code 724.247(c);

- r) This subsection corresponds with 40 CFR 270.14(b)(18), pertaining to state financial mechanisms that do not apply in Illinois. This statement maintains structural parity with the federal regulations;
- s) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). An owner or operator of a HWM facility located in a mountainous area must use larger contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:
 - 1) Map scale and date;
 - 2) 100-year floodplain area;
 - 3) Surface waters including intermittent streams;
 - 4) Surrounding land uses (e.g., residential, commercial, agricultural, recreational, etc.);
 - 5) A wind rose (i.e., prevailing windspeed and direction);
 - 6) Orientation of the map (north arrow);
 - 7) Legal boundaries of the HWM facility site;
 - 8) Access control (e.g., fences, gates, etc.);
 - 9) Injection and withdrawal wells both on-site and off-site;
 - 10) Buildings; treatment, storage, or disposal operations; or other structures (e.g., recreation areas, runoff control systems, access and internal roads, storm, sanitary and process sewage systems, loading and unloading areas, fire control facilities, etc.);
 - 11) Barriers for drainage or flood control; and

- 12) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed of (include equipment cleanup areas);

BOARD NOTE: For large HWM facilities, the Agency must allow the use of other scales on a case-by-case basis.

- t) Applicants must submit such information as the Agency determines is necessary for it to determine whether to issue a permit and what conditions to impose in any permit issued;
- u) For land disposal facilities, if a case-by-case extension has been approved under 35 Ill. Adm. Code 728.105 or if a petition has been approved under 35 Ill. Adm. Code 728.106, a copy of the notice of approval of the extension or of approval of the petition is required; and
- v) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under 35 Ill. Adm. Code 703.191(c).

BOARD NOTE: Derived from 40 CFR 270.14(b)-(2002) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.241 Establishing Permit Conditions

- a) General conditions:
 - 1) In addition to the conditions established pursuant to 35 Ill. Adm. Code 702.160(a), each RCRA permit must include permit conditions necessary to achieve compliance with each of the applicable requirements specified in 35 Ill. Adm. Code 724 and 726 through 728. In satisfying this provision, the Agency may incorporate applicable requirements of 35 Ill. Adm. Code 724 and 726 through 728 directly into the permit or establish other permit conditions that are based on these Parts;
 - 2) Each RCRA permit issued pursuant to Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)] must contain terms and conditions that the Agency determines are necessary to adequately protect human health and the environment; and
 - 3) If, as the result of an assessments or other information, the Agency determines that conditions, in addition to those required under subpart EEE of 40 CFR 63 or 35 Ill. Adm. Code 724 or ~~725~~ 726, are necessary to

ensure adequate protection of human health and the environment, the Agency must include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

BOARD NOTE: Subsection (a) derived from 270.32(b) ~~(2005)~~, as amended at 70 Fed. Reg. 59402 (Oct. 12, 2006) (2012).

- b) The conditions specified in this Subpart F, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, apply to all RCRA permits.

BOARD NOTE: Subsection (b) derived from 40 CFR 270.30 preamble ~~(2005)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART G: CHANGES TO PERMITS

Section 703.280 Permit Modification at the Request of the Permittee

- a) Class 1 modifications. See Section 703.281.
- b) Class 2 modifications. See Section 703.282.
- c) Class 3 modifications. See Section 703.283.
- d) Other modifications.
 - 1) In the case of modifications not explicitly listed in Appendix A of this Part, the permittee may submit a Class 3 modification request to the Agency, or the permittee may request a determination by the Agency that the modification be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, the permittee must provide the Agency with the necessary information to support the requested classification.
 - 2) The Agency must make the determination described in subsection (d)(1) of this Section as promptly as practicable. In determining the appropriate class for a specific modification, the Agency must consider the similarity of the modification to other modifications codified in Appendix A of this Part and the following criteria:
 - A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to adequately protect human health or

the environment. In the case of Class 1 modifications, the Agency may require prior approval.

- B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to any of the following:
 - i) Common variations in the types and quantities of the wastes managed under the facility permit;
 - ii) Technological advances; and
 - iii) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.
 - C) Class 3 modifications substantially alter the facility or its operation.
- e) Temporary authorizations.
- 1) Upon request of the permittee, the Agency must, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection (e). Temporary authorizations have a term of not more than 180 days.
 - 2) Procedures.
 - A) The permittee may request a temporary authorization for the following:
 - i) Any Class 2 modification meeting the criteria in subsection (e)(3)(B) of this Section; and
 - ii) Any Class 3 modification that meets the criteria in subsection (e)(3)(B)(i) of this Section or that meets the criteria in subsections (e)(3)(B)(iii) through (e)(3)(B)(v) of this Section and provides improved management or treatment of a hazardous waste already listed in the facility permit.
 - B) The temporary authorization request must include the following:
 - i) A description of the activities to be conducted under the temporary authorization;

- ii) An explanation of why the temporary authorization is necessary; and
 - iii) Sufficient information to ensure compliance with 35 Ill. Adm. Code 724 standards.
 - C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Agency and to appropriate units of State and local governments, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.
- 3) The Agency must approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency must find as follows:
 - A) That the authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.
 - B) That the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
 - i) To facilitate timely implementation of closure or corrective action activities;
 - ii) To allow treatment or storage in tanks, containers, or containment buildings, in accordance with 35 Ill. Adm. Code 728;
 - iii) To prevent disruption of ongoing waste management activities;
 - iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
 - v) To facilitate other changes to adequately protect human health and the environment.
- 4) A temporary authorization must be reissued for one additional term of up to 180 days, provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and either of the following is true:

- A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D); or
 - B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.
- f) Public notice and appeals of permit modification decisions.
- 1) The Agency must notify persons on the facility mailing list and appropriate units of State and local government within 10 days after any decision to grant or deny a Class 2 or 3 permit modification request. The Agency must also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect pursuant to Section 703.282(f)(3) or (f)(5).
 - 2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.
 - 3) An automatic authorization that goes into effect pursuant to Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal notwithstanding the provisions of 35 Ill. Adm. Code 705.204.
- g) Newly regulated wastes and units.
- 1) The permittee is authorized to continue to manage wastes listed or identified as hazardous pursuant to 35 Ill. Adm. Code 721, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if each of the following is true:
 - A) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
 - B) The permittee submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;

- C) The permittee is in compliance with the applicable standards of 35 Ill. Adm. Code 725 and 726;
 - D) The permittee also submits a complete class 2 or 3 modification request within 180 days after the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards pursuant to 35 Ill. Adm. Code 724, 725, or 726; and
 - E) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of 35 Ill. Adm. Code 725 for groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator loses authority to operate pursuant to this Section.
- 2) New wastes or units added to a facility's permit pursuant to this subsection (g) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.
- h) Military hazardous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if each of the following is true:
- 1) The facility was in existence as a hazardous waste facility and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;
 - 2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and
 - 3) The permittee submits a complete Class 2 modification request within 180 days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.
- i) Permit modification list. The Agency must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

- j) Combustion facility changes to meet federal 40 CFR 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested pursuant to Appendix A, paragraph L(9) of this Part.
- 1) A facility owner or operator must have complied with the federal notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to October 11, 2000, (see subpart EEE of 40 CFR 63 (2000), incorporated by reference in 35 Ill. Adm. Code 720.111(b)) in order to request a permit modification pursuant to this Section for the purpose of technology changes needed to meet the standards of 40 CFR 63.1203, 63.1204, and 63.1205, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) If the Agency does not act to either approve or deny the request within 90 days of receiving it, the request must be deemed approved. The Agency may, at its discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator in writing before the 90 days has expired. A facility owner or operator must comply with the NIC requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this Section for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards as added on October 12, 2005, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- k) Waiver of RCRA permit conditions in support of transition to the federal 40 CFR 63 MACT standards.
- 1) The facility owner or operator may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under Appendix A of this Part, paragraph L.10. The owner or operator must provide the information described in subsections (k)(1)(A) through (k)(1)(C) of this Section, with Agency review subject to the conditions of subsection (k)(1)(D) of this Section:
 - A) It must identify the specific RCRA permit operating and emissions limits that the owner or operator is requesting to waive;
 - B) It must provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and
 - C) It must discuss how the revised provisions will be sufficiently protective.

- D) The Agency must approve or deny the request within 30 days after receipt of the request. The Agency may, at its discretion, extend this 30-day deadline one time for up to 30 days by notifying the facility owner or operator in writing.
- 2) To request this modification in conjunction with MACT performance testing, where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (h)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Agency) the owner or operator must fulfill the conditions of subsection (k)(2)(A) of this Section, subject to the conditions of subsection (k)(2)(B) of this Section:
 - A) It must submit its modification request to the Agency at the same time it submits its test plans to the Agency.
 - B) The Agency may elect to approve or deny the request contingent upon approval of the test plans.
- 1) Performance Track member facilities. The following procedures apply to the owners and operators of a Performance Track member facility that requests a permit modification under paragraph O.1. in Appendix A to this Part. This subsection (l) corresponds with 40 CFR 270.42(l), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 92, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.
 - 1) ~~The owner or operator of a Performance Track member facility must have complied with the requirements of 35 Ill. Adm. Code 724.115(b)(5) in order to request a permit modification under this Section.~~
 - 2) ~~The owner or operator of the Performance Track member facility should consider the request for permit modification approved if the Agency does not, in writing, within 60 days after receiving an application, either deny the request for permit modification or notify the owner or operator of the Performance Track member facility that the Agency has extended the 60-day deadline. During an extension of the 60-day deadline, the owner or operator of the Performance Track member facility must adhere to the revised inspection schedule outlined in its request for permit modification, and it must maintain a copy of the application in the facility's operating record.~~

BOARD NOTE: Derived from 40 CFR 270.42(d) through ~~(l) (2007)~~ (k) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART H: REMEDIAL ACTION PLANS

Section 703.302 Applying for a RAP

- a) Applying for a RAP. To apply for a RAP, an owner or operator must complete an application, sign it, and submit it to the Agency according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.95-~~(2005)~~ (2012).

- b) The person who must obtain a RAP. When a facility or remediation waste management site is owned by one person, but the treatment, storage, or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.100-~~(2005)~~ (2012).

- c) The person who must sign the application and any required reports for a RAP. Both the owner and the operator must sign the RAP application and any required reports according to 35 Ill. Adm. Code 702.126(a), (b), and (c). In the application, both the owner and the operator must also make the certification required pursuant to 35 Ill. Adm. Code 702.126(d)(1). However, the owner may choose the alternative certification pursuant to 35 Ill. Adm. Code 702.126(d)(2) if the operator certifies pursuant to 35 Ill. Adm. Code 702.126(d)(1).

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.105-~~(2005)~~ (2012).

- d) What an owner or operator must include in its application for a RAP. An owner or operator must include the following information in its application for a RAP:

- 1) The name, address, and USEPA identification number of the remediation waste management site;
- 2) The name, address, and telephone number of the owner and operator;
- 3) The latitude and longitude of the site;
- 4) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;
- 5) A scaled drawing of the remediation waste management site showing the following:

- A) The remediation waste management site boundaries;

- B) Any significant physical structures; and
 - C) The boundary of all areas on-site where remediation waste is to be treated, stored, or disposed of;
- 6) A specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on the following:
- A) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated or otherwise managed;
 - B) An estimate of the quantity of these wastes; and
 - C) A description of the processes an owner or operator will use to treat, store, or dispose of this waste, including technologies, handling systems, design, and operating parameters an owner or operator will use to treat hazardous remediation wastes before disposing of them according to the land disposal restrictions of 35 Ill. Adm. Code 728, as applicable;
- 7) Enough information to demonstrate that operations that follow the provisions in the owner's or operator's RAP application will ensure compliance with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728;
- 8) Such information as may be necessary to enable the Agency to carry out its duties under other federal laws as is required for traditional RCRA permits pursuant to Section 703.183(t);
- 9) Any other information the Agency decides is necessary for demonstrating compliance with this Subpart H or for determining any additional RAP conditions that are necessary to adequately protect human health and the environment.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.110-~~(2005)~~ (2012).

- e) If an owner or operator wants to keep this information confidential. 35 Ill. Adm. Code ~~120.130~~ 130 allows an owner or operator to claim as confidential any or all of the information an owner or operator submits to the Agency pursuant to this Subpart H. An owner or operator must assert any such claim at the time that the owner or operator submits its RAP application or other submissions by stamping the words "trade secret" in red ink, as provided in 35 Ill. Adm. Code ~~120.305~~ 130.302. If an owner or operator asserts a claim in compliance with 35 Ill. Adm. Code ~~120.201~~

130.200 at the time it submits the information, the Agency must treat the information according to the procedures in 35 Ill. Adm. Code ~~120~~ 130. If an owner or operator does not assert a claim at the time it submits the information, the Agency must make the information available to the public without further notice to the owner or operator. The Agency must deny any requests for confidentiality of an owner's or operator's name or address.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.115-~~(2005)~~ (2012).

- f) To whom the owner or operator must submit its RAP application. An owner or operator must submit its application for a RAP to the Agency for approval.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.120-~~(2005)~~ (2012).

- g) If an owner or operator submits its RAP application as part of another document, what the owner or operator must do. If an owner or operator submits its application for a RAP as a part of another document, an owner or operator must clearly identify the components of that document that constitute its RAP application.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.125-~~(2005)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 703.306 Obtaining a RAP for an Off-Site Location

An owner or operator may perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated.

- a) An owner or operator may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if the owner or operator believes such a location would be more protective than the contaminated area or areas in close proximity.
- b) If the Agency determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the Agency must approve a RAP for this alternative location.
- c) An owner or operator must request the RAP, and the Agency must approve or deny the RAP, according to the procedures and requirements in this Subpart H.
- d) A RAP for an alternative location must also meet the following requirements, which the Agency must include in the RAP for such locations:
 - 1) The RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

- 2) The RAP is subject to the expanded public participation requirements in Sections 703.191, 703.192, and 703.193;
- 3) The RAP is subject to the public notice requirements in 35 Ill. Adm. Code 705.163;
- 4) The site permitted in the RAP may not be located within 61 meters or 200 feet of a fault that has had displacement in the Holocene time. (The owner or operator must demonstrate compliance with this standard through the requirements in Section 703.183(k).) (See the definitions of terms in 35 Ill. Adm. Code 724.118(a).)

BOARD NOTE: Sites in Illinois are assumed to be in compliance with the requirement of subsection (d)(4) of this Section, since they are not listed in appendix VI to 40 CFR 264 (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- e) These alternative locations are remediation waste management sites, and retain the following benefits of remediation waste management sites:
 - 1) Exclusion from facility-wide corrective action under 35 Ill. Adm. Code 724.201; and
 - 2) Application of 35 Ill. Adm. Code 724.101(j) in lieu of Subparts B, C, and D of 35 Ill. Adm. Code 724.

BOARD NOTE: Derived from 40 CFR 270.230-~~(2005)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 703.APPENDIX A Classification of Permit Modifications

Class Modifications

- A. General Permit Provisions
 1. 1. Administrative and informational changes.
 1. 2. Correction of typographical errors.
 1. 3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).

4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:
 - 1 a. To provide for more frequent monitoring, reporting, or maintenance.
 - 2 b. Other changes.
5. Schedule of compliance:
 - 1* a. Changes in interim compliance dates, with prior approval of the Agency.
 - 3 b. Extension of final compliance date.
- 1* 6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Agency.
- 1* 7. Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed.
- 1* 8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).
- 1* 9. Changes to remove permit conditions applicable to a unit excluded pursuant to the provisions of 35 Ill. Adm. Code 721.104.
- 1* 10. Changes in the expiration date of a permit issued to a facility at which all units are excluded pursuant to the provisions of 35 Ill. Adm. Code 721.104.

B. General Facility Standards

1. Changes to waste sampling or analysis methods:
 - 1 a. To conform with Agency guidance or Board regulations.
 - 1* b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.
 - 1* c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.
 - 2 d. Other changes.

2. Changes to analytical quality assurance or quality control plan:
 - 1 a. To conform with agency guidance or regulations.
 - 2 b. Other changes.
- 1 3. Changes in procedures for maintaining the operating record.
- 2 4. Changes in frequency or content of inspection schedules.
5. Changes in the training plan:
 - 2 a. That affect the type or decrease the amount of training given to employees.
 - 1 b. Other changes.
6. Contingency plan:
 - 2 a. Changes in emergency procedures (i.e., spill or release response procedures).
 - 1 b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.
 - 2 c. Removal of equipment from emergency equipment list.
 - 1 d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.

7. CQA plan:
 - 1 a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.
 - 2 b. Other changes.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as a permit modification.

C. Groundwater Protection

1. Changes to wells:
 - 2 a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system.
 - 1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.
- 1* 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.
- 1* 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.
- 2 4. Changes in point of compliance.
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs (Alternate Concentration Limits)):
 - 3 a. As specified in the groundwater protection standard.
 - 2 b. As specified in the detection monitoring program.
- 2 6. Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(h), unless otherwise specified in this Appendix.
7. Compliance monitoring program:
 - 3 a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(g)(4) and 724.199.
 - 2 b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(j), unless otherwise specified in this Appendix.

8. Corrective action program:
 - 3 a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(i)(2) and 724.200.
 - 2 b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.
- D. Closure
 1. Changes to the closure plan:
 - 1* a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.
 - 1* b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.
 - 1* c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.
 - 1* d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.
 - 2 e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.
 - 2 f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 35 Ill. Adm. Code 724.213(d) or (e).
 - 3 2. Creation of a new landfill unit as part of closure.
 - 3 3. Addition of the following new units to be used temporarily for closure activities:
 - 3 a. Surface impoundments.
 - 3 b. Incinerators.

- 3 c. Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).
- 2 d. Waste piles that comply with 35 Ill. Adm. Code 724.350(c).
- 2 e. Tanks or containers (other than specified in paragraph D(3)(f) below).
- 1* f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Agency.
- 2 g. Staging piles.

E. Post-Closure

- 1 1. Changes in name, address, or phone number of contact in post-closure plan.
- 2 2. Extension of post-closure care period.
- 3 3. Reduction in the post-closure care period.
- 1 4. Changes to the expected year of final closure, where other permit conditions are not changed.
- 2 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.

F. Containers

- 1 1. Modification or addition of container units:
 - 3 a. Resulting in greater than 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
 - 2 b. Resulting in up to 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
 - 1 c. Modification or addition of container units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new waste codes or narrative description of wastes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

2. Modification of container units without an increased capacity or alteration of the system:
 - 2 a. Modification of a container unit without increasing the capacity of the unit.
 - 1 b. Addition of a roof to a container unit without alteration of the containment system.
3. Storage of different wastes in containers, except as provided in F(4):
 - 3 a. That require additional or different management practices from those authorized in the permit.
 - 2 b. That do not require additional or different management practices from those authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
4. Storage or treatment of different wastes in containers:
 - 2* a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
 - 1* b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

G. Tanks

1. Modification of a tank unit, secondary containment system, or treatment process that increases tank capacity, adds a new tank, or alters treatment, specified as follows:
 - 3 a. Modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d), and G(1)(e).

- 2 b. Modification or addition of tank units resulting in up to 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(d) and G(1)(e).

- 2 c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.

- 1* d. After prior approval of the Agency, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.

- 1* e. Modification or addition of tank units or treatment processes that are necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

- 2 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.

- 1 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ± 10 percent of the replaced tank provided:
 - a. The capacity difference is no more than 1500 gallons (5680 ℓ),
 - b. The facility's permitted tank capacity is not increased, and
 - c. The replacement tank meets the same conditions in the permit.

- 2 4. Modification of a tank management practice.

- 5. Management of different wastes in tanks:
 - a. That require additional or different management practices, tank design, different fire protection specifications or significantly different tank treatment process from that authorized in the permit, except as provided in paragraph G(5)(c).

- 2 b. That do not require additional or different management practices or tank design, different fire protection specification, or significantly different tank treatment process than authorized in the permit, except as provided in paragraph G(5)(d).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- 1* c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

- 1 d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

- 3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.
- 3 2. Replacement of a surface impoundment unit.
- 2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.
- 2 4. Modification of a surface impoundment management practice.
5. Treatment, storage, or disposal of different wastes in surface impoundments:
- 3 a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.

- 2 b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2) (Procedures for Case-by-Case Extensions to an Effective Date), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

- 1* 6. Modifications of unconstructed units to comply with 35 Ill. Adm. Code 724.321(c), 724.322, 724.323, and 724.326(d).

7. Changes in response action plan:

- 3 a. Increase in action leakage rate.
- 3 b. Change in a specific response reducing its frequency or effectiveness.
- 2 c. Other changes.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- I. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).

1. Modification or addition of waste pile units:

- 3 a. Resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity.
- 2 b. Resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity.
- 2 2. Modification of waste pile unit without increasing the capacity of the unit.
- 1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.
- 2 4. Modification of a waste pile management practice.
- 2 5. Storage or treatment of different wastes in waste piles:
 - 3 a. That require additional or different management practices or different design of the unit.
 - 2 b. That do not require additional or different management practices or different design of the unit.
- 2 6. Conversion of an enclosed waste pile to a containment building unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

- 3 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.
- 3 2. Replacement of a landfill.
- 3 3. Addition or modification of a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
- 2 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
- 2 5. Modification of a landfill management practice.

6. Landfill different wastes:

- 3 a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.
- 2 b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2) (Procedures for Case-by-Case Extensions to an Effective Date), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1* 7. Modification of unconstructed units to comply with 35 Ill. Adm. Code 724.351(c), 724.352, 724.353, 724.354(c), 724.401(c), 724.402, 724.403(c), and 724.404.

8. Changes in response action plan:

- 3 a. Increase in action leakage rate.
- 3 b. Change in a specific response reducing its frequency or effectiveness.
- 2 c. Other changes.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

- 3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.
- 2 2. Modification of runoff control system.
- 3 3. Modify runoff control system.
- 2 4. Other modification of land treatment unit component specifications or standards required in permit.
- 5 5. Management of different wastes in land treatment units:
 - 3 a. That require a change in permit operating conditions or unit design specifications.
 - 2 b. That do not require a change in permit operating conditions or unit design specifications.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 6 6. Modification of a land treatment unit management practice to:
 - 3 a. Increase rate or change method of waste application.
 - 1 b. Decrease rate of waste application.
- 2 7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.
- 3 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.
- 3 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).
- 3 10. Changes in the unsaturated zone monitoring system that result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.

- 2 11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.
- 2 12. Changes in background values for hazardous constituents in soil and soil-pore liquid.
- 2 13. Changes in sampling, analysis, or statistical procedure.
- 2 14. Changes in land treatment demonstration program prior to or during the demonstration.
- 1* 15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.
- 1* 16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.
- 3 17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.
- 2 18. Changes in vegetative cover requirements for closure.

L. Incinerators, Boilers and Industrial Furnaces

- 3 1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

- 2 2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

- 3 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units; by adding a primary or secondary combustion unit; by substantially changing the design of any component used to remove HCl/Cl₂, metals, or particulate from the combustion gases; or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

- 2 4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that will not likely affect the capability of the unit to meet the regulatory performance standards but which will change the operating conditions or monitoring requirements specified in the permit. The Agency may require a new trial burn to demonstrate compliance with the regulatory performance standards.

5. Operating requirements:
 - 3 a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide or hydrocarbon concentration, maximum temperature at the inlet to the PM emission control system, or operating parameters for the air pollution control system. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

 - 3 b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.

 - 2 c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.

6. Burning different wastes:

- 3 a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit, the Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.
- 2 b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

- 2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.
- 1* b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.
- 1* c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.
- 1* d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.
- 1 8. Substitution of an alternative type of non-hazardous waste fuel that is not specified in the permit.
- 1* 9. Technology changes needed to meet standards under federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), provided the procedures of Section 703.280(j) are followed.

- 1* 10. Changes to RCRA Permit provisions needed to support transition to federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), provided the procedures of Section 703.280(k) are followed.

M. Containment Buildings

1. Modification or addition of containment building units:
- 3 a. Resulting in greater than 25 percent increase in the facility's containment building storage or treatment capacity.
- 2 b. Resulting in up to 25 percent increase in the facility's containment building storage or treatment capacity.
- 2 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.
3. Replacement of a containment building with a containment building that meets the same design standards provided:
- 1 a. The unit capacity is not increased.
- 1 b. The replacement containment building meets the same conditions in the permit.
- 2 4. Modification of a containment building management practice.
5. Storage or treatment of different wastes in containment buildings:
- 3 a. That require additional or different management practices.
- 2 b. That do not require additional or different management practices.

N. Corrective Action

- 3 1. Approval of a corrective action management unit pursuant to 35 Ill. Adm. Code 724.652.
- 2 2. Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.

- 2 3. Approval of a staging pile or staging pile operating term extension pursuant to 35 Ill. Adm. Code 724.654.

O. Burden Reduction

1. ~~Approval of reduced inspection frequency for a Performance Track member facility for one of the following: This paragraph O.1. corresponds with paragraph O.1. in appendix I to 40 CFR 270.42, which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 92, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.~~
- 1* a. ~~A tank system pursuant to 35 Ill. Adm. Code 724.295.~~
- 1* b. ~~A container pursuant to 35 Ill. Adm. Code 724.274.~~
- 1* c. ~~A containment building pursuant to 35 Ill. Adm. Code 724.1101(e)(4).~~
- 1* d. ~~An area subject to spills pursuant to 35 Ill. Adm. Code 724.115(b)(4).~~
- 1 2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to 35 Ill. Adm. Code 724.152(b).
- 1 3. A change to recordkeeping and reporting requirements pursuant to any of the following: 35 Ill. Adm. Code 724.156(i), 724.443(a)(2), 724.961(b)(1) and (d), 724.962(a)(2), 724.296(f), 724.200(g), or 724.213(e)(5).
- 1 4. A change to inspection frequency for a tank system pursuant to 35 Ill. Adm. Code 724.295(b).
- 1 5. A change to a detection and compliance monitoring program pursuant to 35 Ill. Adm. Code 724.198(d), (g)(2), (g)(3), or 724.199(f) or (g).

Note: * indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from appendix I to 40 CFR 270.42-(2009) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 704
UIC PERMIT PROGRAM

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704.102	Scope of the Permit or Rule Requirement
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704.106	Classification of Injection Wells
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SUBPART B: PROHIBITIONS

Section	Content
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704.122	Prohibition Against Movement of Fluid into USDW
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704.124	Prohibition Against Class IV Injection Wells
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SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY
RULE

Section	Content
704.141	Existing Class I and III Injection Wells
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SUBPART D: APPLICATION FOR PERMIT

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704.186	Hazardous Waste Requirements
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SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

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Section	
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SUBPART H: ISSUED PERMITS

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SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

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- 704.287 Location in a Groundwater Protection Area or Another Sensitive Area
- 704.288 Additional Requirements
- 704.289 Closure of a Class V Injection Well

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

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478, effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective February 20, 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended in R00-11/R01-1 at 24 Ill. Reg. 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. 11139, effective August 14, 2001; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 605, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1613, January 20, 2012; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY
RULE

Section 704.150 Requirements for Class I and III Injection Wells Authorized by Rule

The following requirements apply to the owner or operator of a Class I or Class III well authorized by rule under this Subpart C, as provided by Section 704.144.

- a) The owner or operator must comply with all applicable requirements of this Subpart C and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and SDWA and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.
- b) Twenty-four hour reporting. The owner or operator must report any noncompliance that may endanger health or the environment, including either of the events described in subsection (b)(1) or (b)(2) of this Section, subject to the conditions of subsection (b)(3) of this Section:
 - 1) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; or
 - 2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDWs.
 - 3) Any information must be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission must also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- c) Plugging and abandonment plan.
 - 1) The owner or operator must prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.
 - 2) Submission of plan.

- A) The owner or operator must submit the plan on any forms prescribed by the Agency.
- B) The owner or operator must submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) of this Section (i.e., 45 days prior to plugging, unless shorter notice is approved).
- C) The plan must include the following information:
 - i) The nature and quantity and material to be used in plugging;
 - ii) The location and extent (by depth) of the plugs;
 - iii) Any proposed test or measurement to be made;
 - iv) The amount, size, and location (by depth) of casing to be left in the well;
 - v) The method and location where casing is to be parted; and
 - vi) The estimated cost of plugging the well.
- D) After a cessation of operations of two years, the owner or operator must plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:
 - i) It provides written notice to the Agency; and
 - ii) It describes actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger a USDW during the period of temporary abandonment. These actions and procedures must include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the Act [415 ILCS 5/Title IX].
- E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of subsections (c)(2)(D)(i) and

(c)(2)(D)(ii) of this Section must notify the Agency in writing prior to resuming operation of the well.

- d) Financial responsibility.
- 1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:
 - A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) of this Section and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) of this Section;
 - B) The well has been converted in compliance with subsection (j) of this Section; or
 - C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator must show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.
 - 2) The owner or operator was to have submitted such evidence no later than March 3, 1985. Where the ownership or operational control of the well was transferred later than March 3, 1985, the transferee must submit such evidence no later than the date specified in the notice required pursuant to subsection (1)(2) of this Section.
 - 3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.
 - 4) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of Subpart G of this Part.
 - 5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for

the purpose of financial responsibility must so notify the Agency if the guarantor is named as debtor in any such proceeding.

- 6) In the event of commencement of a proceeding specified in subsection (d)(5) of this Section, an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility pursuant to this Section will be deemed to be in violation of this subsection (d) until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties must be prohibited from injecting into the well until such alternative financial assurance is provided.
- e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells). Those wells are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, rather than by the Board and the Agency. This statement maintains structural consistency with USEPA rules.
- f) Operating requirements.
 - 1) No person must cause or allow injection between the outermost casing protecting USDWs and the well bore.
 - 2) Maintenance of mechanical integrity.
 - A) The owner or operator of a Class I or Class III injection well authorized by rule under this Subpart C must establish and maintain mechanical integrity, as defined in 35 Ill. Adm. Code 730.106, until either of the following has occurred:
 - i) The well is properly plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) of this Section and 35 Ill. Adm. Code 730.110 and a plugging and abandonment report is submitted pursuant to subsection (k); or
 - ii) The well is converted in compliance with subsection (j) of this Section.
 - B) The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.
 - 3) Cessation upon Lack of Mechanical Integrity.

- A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency must give written notice of its determination to the owner or operator.
 - B) Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency's determination.
 - C) The Agency may allow plugging of the well in accordance with 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.
 - D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.
- 5) For a Class I injection well, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator must fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer must fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For any other Class I injection well, the owner or operator must insure that the alternative completion method will reliably provide a comparable level of protection of USDWs.
- 6) Injection pressure for Class I and III injection wells.
- A) Except during stimulation, the owner or operator must not exceed an injection pressure at the wellhead that must be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and

- B) The owner or operator must not inject at a pressure that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into a USDW.
- g) Monitoring Requirements. The owner or operator must perform the monitoring as described in this subsection (g). Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) (~~1993~~) or in appendix III of 40 CFR 261 (Chemical Analysis Test Methods) (~~1992~~), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods that have been approved by the Agency.
- 1) The owner or operator of a Class I injection well must undertake the following actions:
 - A) It must analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;
 - B) It must install and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing; and
 - C) It must install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the USDWs. The type, number, and location of the wells; the parameters to be measured; and the frequency of monitoring must be approved by the Agency.
 - 2) This subsection (g)(2) corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.
 - 3) The owner or operator of a Class III injection well must undertake the following actions:
 - A) It must provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.

- i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.
 - ii) If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations that must not be exceeded.
 - iii) In such a case the owner or operator must retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation;
 - B) It must monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;
 - C) It must monitor the fluid level in the injection zone semi-monthly, where appropriate; and
 - D) All Class III injection wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.
- h) Reporting requirements. The owner or operator must submit reports to the Agency as follows:
- 1) For a Class I injection well, quarterly reports on all of the following:
 - A) The physical, chemical, and other relevant characteristics of the injection fluids;
 - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C) of this Section;
 - D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and

- E) Any well work over performed during the reported quarter.
- 2) This subsection (h)(2) corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.
 - 3) For a Class III injection well, all of the following:
 - A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C) of this Section;
 - B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and
 - C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.
- i) Retention of records. The owner or operator must retain records of all monitoring information, including the following:
 - 1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and
 - 2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator must retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.
 - j) Notice of abandonment. The owner or operator must notify the Agency at least 45 days before conversion or abandonment of the well.
 - k) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report must be submitted within 60 days. The report must be certified as accurate by the person who performed the plugging operation. Such report must consist of either:

- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency; or
 - 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan, on any form supplied by the Agency, specifying the different procedures used.
- l) Change of ownership.
- 1) The owner or operator must notify the Agency of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.
 - 2) The notice must include a written agreement between the transferor and the transferee containing a specific date when the financial responsibility demonstration of subsection (d) of this Section will be met by the transferee.
 - 3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) of this Section.
- m) Requirements for a Class I hazardous waste injection well. The owner or operator of any Class I injection well injecting hazardous waste must comply with Section 704.203. In addition the owner or operator must properly dispose of, or decontaminate by removing all hazardous waste residues, all injection well equipment.

BOARD NOTE: Derived from 40 CFR 144.28 ~~(2011)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART E: PERMIT CONDITIONS

Section 704.187 Monitoring and Reporting

UIC permits must require by condition monitoring and reporting requirements, as set forth in 35 Ill. Adm. Code 730. The permittee must be required to identify types of tests and methods used to generate the monitoring data. Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited and described in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) or in appendix III of 40 CFR 261 (Chemical Analysis Test Methods), each incorporated by

reference in 35 Ill. Adm. Code 720.111(b); as stated in Appendix C to 35 Ill. Adm. Code 261; or, in certain circumstances, by other methods that have been approved in writing by the Agency.

BOARD NOTE: Derived from 40 CFR 144.52(a)(5) ~~(2005)~~ (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

720.101 Purpose, Scope, and Applicability
720.102 Availability of Information; Confidentiality of Information
720.103 Use of Number and Gender
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SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110 Definitions
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SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120 Rulemaking
720.121 Alternative Equivalent Testing Methods
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720.134 Non-Waste Determinations
720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
720.142 Notification Requirement for Hazardous Secondary Materials
720.143 Legitimate Recycling of Hazardous Secondary Materials

720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations
(Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 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 R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.102 Availability of Information; Confidentiality of Information

- a) Availability and confidentiality of information is governed by Illinois law, including Sections 7 and 7.1 of the Environmental Protection Act [415 ILCS 5/7 and 7.1] and 35 Ill. Adm. Code ~~101.107 and 120.130~~.
- b) Any person who submits information to the Board or the Agency in accordance with this Part or 35 Ill. Adm. Code 721 through 728 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in 35 Ill. Adm. Code 130. Information covered by such a claim will be disclosed by the Board or the Agency only to the extent, and by means of the procedures, set forth in 35 Ill. Adm. Code 130. Information required under 35 Ill. Adm. Code 722.153(a) and 722.183 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality or trade secret.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 720.104 Electronic Reporting

- a) Scope and Applicability.
 - 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
 - 2) Electronic document submission under this Section can occur only as follows:
 - A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic

format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

B) For submissions of documents to the State, submissions may occur only under the following circumstances:

i) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;

ii) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board or the Agency may use that system until USEPA disapproves its use in writing; or

iii) The Board or the Agency may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 C-F-R: 3.1000, so long as the system complies with 40 C-F-R: 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.

3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) of this Section:

A) Any document submitted via facsimile;

B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or

C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of

administrative arrangements between the parties to the transfer to share data.

- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B)(iii) of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000, ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~ (2012).

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
 - 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3, ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~ (2012).

- d) Procedures for submission of electronic documents in lieu of paper documents to the Board or the Agency.
 - 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the

Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].

- 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B) of this Section.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3, ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~ (2012).

- e) Effects of submission of an electronic document in lieu of paper documents.
 - 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
 - 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
 - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
 - 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3.4 and 3.2000(c), ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~ (2012).

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
 - 1) The Administrative Procedure Act [5 ILCS 100];
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];

- 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act [415 ILCS 5];
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
 - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) of this Section will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 3.2(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (2012).

BOARD NOTE: Derived from 40 CFR 3, and 145.11(a)(33), as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

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

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

“Accreditation Council for Graduate Medical Education: Glossary of Terms,” March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:

http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

ACI. Available from the American Concrete Institute, Box 19150, Redford Station, Detroit, Michigan 48219:

ACI 318-83: "Building Code Requirements for Reinforced Concrete," adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, 212-354-3300:

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, 202-682-8000:

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

"Evaporative Loss from External Floating-Roof Tanks," API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 725.984.

"Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 724.291, 724.293, 725.291, and 725.292.

"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, 212-705-7722:

"Chemical Plant and Petroleum Refinery Piping," ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

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

ASTM C 94-90, "Standard Specification for Ready-Mixed Concrete," approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, "Standard Test Method for Saybolt Viscosity," approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 93-85, "Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials," approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis," approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes," approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography,"

approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 724.963 and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

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

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

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, 713-492-0535:

“Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems,” NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

“Flammable and Combustible Liquids Code,” NFPA 30, issued July 18, 2003, as supplemented by TIA 03-1, issued July 15, 2004, and corrected by Errata 30-03-01, issued August 13, 2004, USEPA-approved for 35 Ill. Adm. Code 724.298, 725.298, and 727.290, referenced in 35 Ill. Adm. Code 725.301 and 726.211.

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

“APTI Course 415: Control of Gaseous Emissions,” December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935. BOARD NOTE: “APTI” denotes USEPA’s “Air Pollution Training Institute” (Internet address: www.epa.gov/air/oaqps/eog/).

“Generic Quality Assurance Project Plan for Land Disposal Restrictions Program,” USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry,”

Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

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

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

“North American Industry Classification System,” July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of “NAICS Code”) for the purposes of Section 720.142.

BOARD NOTE: Also available on the Internet from the Bureau of Census: www.census.gov/naics/2007/naicod07.htm.

“Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities,” August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources,” October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended

by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar® Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.934, 724.963, 725.934, and 725.963.

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD Guidance Manual. “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” 2009 (also called “Guidance Manual for the Control of Transboundary Movements of Recoverable Materials” in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL, as amended by C(2004)20, C(2005)141, and C(2008)156:

“Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156” (also called “Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” within the text of Annex A, and “Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations” in the original OECD decision source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).

“Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure” (individually referred to as “Annex B to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX (“List B”) to the “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal” (“Basel Convention”).

“Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure” (individually referred to as “Annex C to OECD Guidance Manual” in 35 Ill. Adm.

Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II (“Categories of Wastes Requiring Special Consideration”) and VIII (“List A”) to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, “Ready Biodegradability,” Method 301B (July 17, 1992), “CO₂ Evolution (Modified Sturm Test),” referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

“Standard for Dual Wall Underground Steel Storage Tanks” (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

“DOD Ammunition and Explosives Safety Standards” (DOD 6055.09-STD), as in effect on February 29, 2008, referenced in 35 Ill. Adm. Code 726.305.

“The Motor Vehicle Inspection Report” (DD Form 626), as in effect in March 2007, referenced in 35 Ill. Adm. Code 726.303.

“Requisition Tracking Form” (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

“The Signature and Tally Record” (DD Form 1907), as in effect in November 2006, referenced in 35 Ill. Adm. Code 726.303.

“Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles” (DD Form 836), as in effect in December 2007, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09-STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD Form 1907, DD Form 836, and DOD 6055.09-STD are available on-line for download in pdf format from <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

“Inventory of Injection Wells,” USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

“Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells,” USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised,” October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

“EPA RCRA Delisting Program—Guidance Manual for the Petitioner,” March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from www.gsa.gov/forms/forms.htm.

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

10 CFR 20.2006-~~(2012)~~ (2013) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code ~~702.110~~, 726.425, and 726.450.

Table II, column 2 in appendix B to 10 CFR 20-~~(2012)~~ (2013) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20-~~(2012)~~ (2013) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71-~~(2012)~~ (2013), as amended at 77 Fed. Reg. 39899 (July 6, 2012) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5-~~(2012)~~ (2013) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203-~~(2012)~~ (2013) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

~~40 CFR 3.2 (2012) (How Does This Part Provide for Electronic Reporting?), referenced in Section 720.104.~~

40 CFR 3.3 (2012) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (2012) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 (2012) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2012) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2012) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 (2012) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2012), as amended at 77 Fed. Reg. 44488 (July 30, 2012); 77 Fed. Reg. 48433 (Aug. 14, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 56421 (Sept. 12, 2012) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2012) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60 (2012) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 724.934 and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code ~~724.987~~724.986 and 725.987.

40 CFR 61 (2012) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2012) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61 (2012) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2012), as amended at 77 Fed. Reg. 41075 (July 12, 2012), 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 55698 (Sept. 11, 2012); 77 Fed. Reg. 58219 (Sept. 19, 2012); 77 Fed. Reg. 65135 (Oct. 25, 2012); 77 Fed. Reg. 75739 (Dec. 21, 2012) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, and 725.980, and 726.200.

Subpart RR of 40 CFR 63 (2012) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code ~~724.982, 724.984, 724.985, 725.983, 725.985, and 725.986.~~

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63 (2012) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2012) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63 (2012) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2012) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2012), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2012) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (2012) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 (2012) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 258 (2012) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) (2012) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

~~Appendix I to 40 CFR 260 (2012) (Overview of Subtitle C Regulations), referenced in Appendix A to 35 Ill. Adm. Code 720.~~

40 CFR 261.151 (2012) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 (2012) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 (2012) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 (2012) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 (2012) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 (2012) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 (2012) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262 (2012) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (2012) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264 (2012) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2012) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2012) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 (2012) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, ~~and 724.118~~, and 727.110.

Appendix I to 40 CFR 265 (2012) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2012) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2012) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2012) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 (2012) (Methods Manual for Compliance with the BIF Regulations), referenced generally in 35 Ill. Adm. Code Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as “Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces,” December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151 (2012) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 (2012) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761 (2012), as amended at 77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012) (Polychlorinated Biphenyls (PCBs))

Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 (2012), as amended at 77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 (2012), as amended at 77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2012), as amended at 77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2012) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107-(2011) (2012) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171-(2011), as amended at 77 Fed. Reg. 37962 (June 25, 2012) (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3-(2011) (2012) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8-(2011), as amended at 77 Fed. Reg. 37962 (June 25, 2012) (2012) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15-(2011) (2012) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16-(2011) (2012) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172-(2011), as amended at 76 Fed. Reg. 81396 (Dec. 28, 2011); 76 Fed. Reg. 82163 (Dec. 30, 2011); 77 Fed. Reg. 37962 (June 25, 2012) (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104,

722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304-~~(2011)~~ (2012) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172-~~(2011)~~ (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173-~~(2011)~~, as amended at 76 Fed. Reg. 81396 (Dec. 28, 2011); 76 Fed. Reg. 82163 (Dec. 30, 2012); 77 Fed. Reg. 37962 (June 25, 2012) (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, ~~724.416~~, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2-~~(2011)~~ (2012) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12-~~(2011)~~ (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28-~~(2011)~~ (2012) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50-~~(2011)~~ (2012) (Class 1—Definitions), referenced in 35 Ill. Adm. Code ~~721.124~~ 721.123.

49 CFR 173.54-~~(2011)~~ (2012) (Forbidden Explosives), referenced in 35 Ill. Adm. Code ~~721.124~~ 721.123.

49 CFR 173.115-~~(2011)~~ (2012) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2012) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174-~~(2011)~~, as amended at 76 Fed. Reg. 81396 (Dec. 28, 2011); 77 Fed. Reg. 37962 (June 25, 2012) (2012) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175-~~(2011)~~, as amended at 76 Fed. Reg. 82163 (Dec. 30, 2012) (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Carriage by

Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

~~49 CFR 176 (2011), as amended at 76 Fed. Reg. 82163 (Dec. 30, 2012)~~ (2012) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

~~49 CFR 177 (2011), as amended at 76 Fed. Reg. 75470 (Dec. 2, 2011)~~ (2012) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

~~49 CFR 178 (2011)~~ (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

~~49 CFR 179 (2011), as amended at 77 Fed. Reg. 37962 (June 25, 2012)~~ (2012), as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

~~49 CFR 180 (2011), as amended at 77 Fed. Reg. 37962 (June 25, 2012)~~ (2012) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014) (2011), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j)) (2011), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1412 of the Department of Defense Authorization Act of 1986(50 USC 1521(j)(1)) (2011), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 722
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

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SUBPART G: FARMERS

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SUBPART H: TRANS-BOUNDARY SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

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722.310	Hazardous Waste Determination in the Laboratory
722.311	Hazardous Waste Determination at an On-Site Central Accumulation Area

- 722.312 Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal Facility
- 722.313 Laboratory Clean-Outs
- 722.314 Laboratory Management Plan
- 722.315 Unwanted Material That Is Not Solid Waste or Hazardous Waste
- 722.316 Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

722.APPENDIX A Hazardous Waste Manifest

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 R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 722.111 Hazardous Waste Determination

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART H: TRANS-BOUNDARY SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

Section 722.185 Contracts

- a) Trans-boundary movements of hazardous wastes subject to the Amber control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this Section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.
- b) Contracts or equivalent arrangements must specify the following names and USEPA identification numbers, where available:

- 1) The generator of each type of waste;
 - 2) Each person that will have physical custody of the wastes;
 - 3) Each person that will have legal control of the wastes; and
 - 4) The recovery facility.
- c) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify the following:
- 1) That the person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the country of export and country of import and, if the wastes are located in a country of transit, the competent authorities of that country; and
 - 2) That the person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and, as the case may be, shall provide the notification for re-export.
- d) Contracts must specify that the importer will provide the notification required in Section 722.182(c) prior to re-export of controlled wastes to a third country.
- e) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any country concerned, in accordance with applicable national or international law requirements.

BOARD NOTE: Financial guarantees so required are intended to provide for alternative recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD member countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, a transporter or importer may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

- f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this Subpart H.
- g) Upon request by USEPA or the Agency, a U.S. exporter, importer, or recovery facility must submit to USEPA and the Agency copies of contracts, chain of

contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 35 Ill. Adm. Code ~~120~~ 130 will be treated as confidential and will be disclosed by the Agency only as provided in 35 Ill. Adm. Code ~~120~~ 130.

BOARD NOTE: Although the United States does not require routine submission of contracts at this time, OECD Guidance Manual allows OECD member countries to impose such requirements. When other OECD member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, USEPA or the Agency will request the required information; absent submission of such information, some OECD member countries may deny consent for the proposed movement.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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724.101	Purpose, Scope, and Applicability
724.103	Relationship to Interim Status Standards
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SUBPART B: GENERAL FACILITY STANDARDS

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724.111	USEPA Identification Number
724.112	Required Notices
724.113	General Waste Analysis
724.114	Security
724.115	General Inspection Requirements
724.116	Personnel Training
724.117	General Requirements for Ignitable, Reactive, or Incompatible Wastes
724.118	Location Standards
724.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

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724.130	Applicability
724.131	Design and Operation of Facility
724.132	Required Equipment
724.133	Testing and Maintenance of Equipment
724.134	Access to Communications or Alarm System
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SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

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724.152	Content of Contingency Plan
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724.155	Emergency Coordinator
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SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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724.172	Manifest Discrepancies
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724.174	Availability, Retention, and Disposition of Records
724.175	Annual Facility Activities Report
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724.194	Concentration Limits
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724.196	Compliance Period
724.197	General Groundwater Monitoring Requirements
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724.210	Applicability
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724.213	Closure; Time Allowed For Closure
724.214	Disposal or Decontamination of Equipment, Structures, and Soils
724.215	Certification of Closure
724.216	Survey Plat
724.217	Post-Closure Care and Use of Property
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SUBPART H: FINANCIAL REQUIREMENTS

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724.241	Definitions of Terms as Used in This Subpart
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724.273	Management of Containers
724.274	Inspections
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724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure
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724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
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724.298	Special Requirements for Ignitable or Reactive Waste
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724.350	Applicability
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724.352	Action Leakage Rate
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724.358	Closure and Post-Closure Care
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724.370	Applicability
724.371	Treatment Program
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724.379	Recordkeeping
724.380	Closure and Post-Closure Care
724.381	Special Requirements for Ignitable or Reactive Waste
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724.410	Closure and Post-Closure Care
724.412	Special Requirements for Ignitable or Reactive Waste
724.413	Special Requirements for Incompatible Wastes
724.414	Special Requirements for Bulk and Containerized Liquids
724.415	Special Requirements for Containers
724.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
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SUBPART O: INCINERATORS

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724.441	Waste Analysis
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724.444	Hazardous Waste Incinerator Permits
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724.651	Grandfathered Corrective Action Management Units
724.652	Corrective Action Management Units
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SUBPART W: DRIP PADS

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724.670	Applicability
724.671	Assessment of Existing Drip Pad Integrity
724.672	Design and Installation of New Drip Pads
724.673	Design and Operating Requirements
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724.700	Applicability
724.701	Environmental Performance Standards
724.702	Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action
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SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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724.930	Applicability
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724.932	Standards: Process Vents
724.933	Standards: Closed-Vent Systems and Control Devices
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724.957	Standards: Valves in Gas/Vapor or Light Liquid Service
724.958	Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
724.959	Standards: Delay of Repair
724.960	Standards: Closed-Vent Systems and Control Devices
724.961	Alternative Percentage Standard for Valves
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724.963	Test Methods and Procedures
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724.987	Standards: Closed-Vent Systems and Control Devices
724.988	Inspection and Monitoring Requirements
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SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES
STORAGE

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724.APPENDIX A	Recordkeeping Instructions
724.APPENDIX B	EPA Report Form and Instructions (Repealed)
724.APPENDIX D	Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.APPENDIX E	Examples of Potentially Incompatible Waste
724.APPENDIX I	Groundwater Monitoring List

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 R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13,

1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 724.930 Applicability

- a) This Subpart AA applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in Section 724.101).
- b) Except for Sections 724.934(d) and (e), this Subpart AA applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw (parts per million by weight), if these operations are conducted as follows:
 - 1) In units that are subject to the permitting requirements of 35 Ill. Adm. Code 703;
 - 2) In a unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 35 Ill. Adm. Code 722.134(a) (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility

otherwise subject to the permitting requirements of 35 Ill. Adm. Code 703;
or

- 3) In a unit that is exempt from permitting under the provisions of 35 Ill. Adm. Code 722.134(a) (i.e., a 90-day tank or container) and which is not a recycling unit under the provisions of 35 Ill. Adm. Code 721.106.
- c) For the owner and operator of a facility subject to this Subpart AA that received a final permit under 35 Ill. Adm. Code 702, 703, and 705 prior to December 6, 1996, the requirements of this Subpart AA must be incorporated into the permit when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705. Until such date when the owner and operator receives a final permit incorporating the requirements of this Subpart AA, the owner and operator is subject to the requirements of Subpart AA of 35 Ill. Adm. Code 725.

BOARD NOTE: The requirements of Sections 724.932 through 724.936 apply to process vents on hazardous waste recycling units previously exempt under 35 Ill. Adm. Code 721.106(c)(1). Other exemptions under 35 Ill. Adm. Code 721.104; ~~722.134~~ and 724.101(g) are not affected by these requirements.

- d) This subsection (d) corresponds with 40 CFR 264.1030(d), which is marked “reserved” by USEPA. This statement maintains structural consistency with USEPA rules.
- e) The requirements of this Subpart AA do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this Subpart AA are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60, 61, or 63. The documentation of compliance under regulations at 40 CFR 60, 61, or 63 must be kept with, or made readily available with, the facility operating record.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Section 724.980 Applicability

- a) The requirements of this Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to Subpart I, J, or K of this Part, except as Section 724.101 and subsection (b) of this Section provide otherwise.

- b) The requirements of this Subpart CC do not apply to the following waste management units at the facility:
- 1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.
 - 2) A container that has a design capacity less than or equal to 0.1 m³ (3.5 ft³ or 26.4 gal).
 - 3) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
 - 4) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.
 - 5) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required pursuant to the Act or Board regulations or under the corrective action authorities of RCRA section 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar federal or State authorities.
 - 6) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act of 1954 (42 USC 2011 et seq.) and the Nuclear Waste Policy Act of 1982 (42 USC 10101 et seq.).
 - 7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), or 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories), each incorporated by reference in 35 Ill. Adm. Code 720.111(b). For the purpose of complying with this subsection (b)(7), a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of Section 724.984(i), except as provided in Section 724.982(c)(5).
 - 8) A tank that has a process vent, as defined in 35 Ill. Adm. Code 724.931.

- c) For the owner and operator of a facility subject to this Subpart CC and that received a final RCRA permit prior to December 6, 1996, the requirements of this Subpart CC must be incorporated into the permit when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705. Until the date when the owner and operator receives a final permit incorporating the requirements of this Subpart CC, the owner and operator are subject to the requirements of Subpart CC of 35 Ill. Adm. Code 725.

- d) The requirements of this Subpart CC, except for the recordkeeping requirements specified in Section 724.989(i), are stayed for a tank or container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations, when the owner or operator of the unit meets all of the following conditions:
 - 1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purposes of this subsection (d), “organic peroxide” means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

 - 2) The owner or operator prepares documentation, in accordance with Section 724.989(i), explaining why an undue safety hazard would be created if air emission controls specified in Sections 724.984 through 724.987 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of subsection (d)(1) of this Section.

 - 3) The owner or operator notifies the Agency in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of subsection (d)(1) of this Section are managed at the facility in tanks or containers meeting the conditions of subsection (d)(2) of this Section. The notification must state the name and address of the facility and be signed and dated by an authorized representative of the facility owner or operator.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 724.986 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 724.982(b) references the use of this Section for such air emission control.
- b) General requirements.
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in subsection (b)(2) of this Section apply to the container.
 - A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c) of this Section.
 - B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards, specified in subsection (c) of this Section.
 - C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d) of this Section.
 - 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) of this Section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.
- c) Container Level 1 standards.
 - 1) A container using Container Level 1 controls is one of the following:

- A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f) of this Section.
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap).
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
- 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) of this Section must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
- 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position, except as follows:
- A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) In the case when the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed

position and install the covers, as applicable to the container, upon conclusion of the filling operation.

- ii) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.

B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:

- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
- ii) In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

- D) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.
 - E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices, as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container, as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA

Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (USEPA Forms 8700-22 and 8700-22A), as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section.

- B) In the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section.
 - C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater that do not meet applicable USDOT regulations, as specified in subsection (f) of this Section, are not managing hazardous waste in light material service.
- d) Container Level 2 standards.
- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f) of this Section.
 - B) A container that operates with no detectable organic emissions, as defined in 35 Ill. Adm. Code 725.981, and determined in accordance with the procedure specified in subsection (g) of this Section.

- C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h) of this Section.
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- 2) Transfer of hazardous waste in or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
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- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) In the case when the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.
 - ii) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the

loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.

- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range

determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.

- E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices, as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section.
 - B) In the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure

devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section.

- C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- e) Container Level 3 standards.
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B) of this Section.
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B) of this Section.
 - 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 to “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually.

- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 724.987.
 - 3) Safety devices, as defined in 35 Ill. Adm. Code 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1) of this Section.
 - 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 724.987.
 - 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 724.989(d).
 - 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A) of this Section, containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation, as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers—General Requirements for Shipments and Packages), and 49 CFR 180

(Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- 3) For the purpose of complying with this Subpart CC, no exceptions to the 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4) of this Section.
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings), for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirement of subsection (d)(1)(B) of this Section, the procedure specified in Section 724.983(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the following: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.
 - 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) Procedure for determining a container to be vapor-tight using Method 27 for the purpose of complying with subsection (d)(1)(C) of this Section.
- 1) The test must be performed in accordance with Method 27.
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.098 in) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.
 - 3) If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals (0.11 psig) within five minutes after it is pressurized to a minimum of 4,500 Pascals (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 724.989 Recordkeeping Requirements

- a) Each owner or operator of a facility subject to the requirements of this Subpart CC must record and maintain the information specified in subsections (b) through (j) of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by subsections (i) and (j) of this Section, records required by this Section must be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation must be maintained in the operating record until the air emission control equipment is replaced or is otherwise no longer in service. Information required by subsections (i) and (j) of this Section must be maintained in the operating record for as long as the waste management unit is not using air emission controls specified in Sections 724.984 through 724.987, in accordance with the conditions specified in Section 724.980(d) or (b)(7), respectively.
- b) The owner or operator of a tank using air emission controls in accordance with the requirements of Section 724.984 must prepare and maintain records for the tank that include the following information:
 - 1) For each tank using air emission controls in accordance with the requirements of Section 724.984, the owner or operator must record the following:
 - A) A tank identification number (or other unique identification description, as selected by the owner or operator).
 - B) A record for each inspection required by Section 724.984 that includes the following information:
 - i) Date inspection was conducted.
 - ii) For each defect detected during the inspection: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the requirements of Section 724.984, the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected.

- 2) In addition to the information required by subsection (b)(1) of this Section, the owner or operator must record the following information, as applicable to the tank:
- A) The owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in Section 724.984(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of Section 724.984(c). The records must include the date and time the samples were collected, the analysis method used, and the analysis results.
 - B) The owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in Section 724.984(e) must prepare and maintain documentation describing the floating roof design.
 - C) Owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in Section 724.984(f) must prepare and maintain the following records:
 - i) Documentation describing the floating roof design and the dimensions of the tank.
 - ii) Records for each seal gap inspection required by Section 724.984(f)(3) describing the results of the seal gap measurements. The records must include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in Section 724.984(f)(1), the records must include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.
 - D) Each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in Section 724.984(i) must prepare and maintain the following records:
 - i) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement

Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- ii) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.
- c) The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of Section 724.985 must prepare and maintain records for the surface impoundment that include the following information:
- 1) A surface impoundment identification number (or other unique identification description as selected by the owner or operator).
 - 2) Documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Section 724.985(c).
 - 3) A record for each inspection required by Section 724.985 that includes the following information:
 - A) Date inspection was conducted.
 - B) For each defect detected during the inspection the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 724.985(f), the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected.
 - 4) For a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator must prepare and maintain the records specified in subsection (e) of this Section.
- d) The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of Section 724.986 must prepare and maintain records that include the following information:
- 1) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total

Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- 2) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.
- e) The owner or operator using a closed-vent system and control device in accordance with the requirements of Section 724.987 must prepare and maintain records that include the following information:
- 1) Documentation for the closed-vent system and control device that includes the following:
 - A) Certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in subsection (e)(1)(B) of this Section or by performance tests as specified in subsection (e)(1)(C) of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur.
 - B) If a design analysis is used, then design documentation, as specified in Section 724.935(b)(4). The documentation must include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with Section 724.935(b)(4)(C) and certification by the owner or operator that the control equipment meets the applicable specifications.
 - C) If performance tests are used, then a performance test plan as specified in Section 724.935(b)(3) and all test results.
 - D) Information as required by Section 724.935(c)(1) and Section 724.935(c)(2), as applicable.
 - E) An owner or operator must record, on a semiannual basis, the information specified in subsections (e)(1)(E)(i) and (e)(1)(E)(ii) of this Section for those planned routine maintenance operations that would require the control device not to meet the requirements of Section 724.987(c)(1)(A), (c)(1)(B), or (c)(1)(C) of this Section, as applicable.
 - i) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description must include

the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

- ii) A description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description must include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of Section 724.987(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable, due to planned routine maintenance.
- F) An owner or operator must record the information specified in subsections (e)(1)(F)(i) through (e)(1)(F)(iii) of this Section for those unexpected control device system malfunctions that would require the control device not to meet the requirements of Section 724.987 (c)(1)(A), (c)(1)(B), or (c)(1)(C) of this Section, as applicable.
- i) The occurrence and duration of each malfunction of the control device system.
 - ii) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning.
 - iii) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.
- G) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with Section 724.987(c)(3)(B).
- f) The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of Section 724.982(c) must prepare and maintain the following records, as applicable:
- 1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in Section 724.982(c)(1) or (c)(2)(A) through ~~(e)(2)(E)~~ (c)(2)(F), the owner or operator must record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for

the waste determination, then the owner or operator must record the date, time, and location that each waste sample is collected in accordance with the applicable requirements of Section 724.983.

- 2) For tanks, surface impoundments, or containers exempted under the provisions of Section 724.982(c)(2)(G) or (c)(2)(H), the owner or operator must record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.
- g) An owner or operator designating a cover as “unsafe to inspect and monitor” pursuant to Section 724.984(l) or Section 724.985(g) must record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as “unsafe to inspect and monitor,” the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.
- h) The owner or operator of a facility that is subject to this Subpart CC and to the control device standards in federal subpart VV of 40 CFR 60 (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry) or subpart V of 40 CFR 61 (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), may elect to demonstrate compliance with the applicable Sections of this Subpart CC by documentation either pursuant to this Subpart CC, or pursuant to the provisions of subpart VV of 40 CFR 60 or subpart V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or 61 duplicates the documentation required by this Section.
- i) For each tank or container not using air emission controls specified in Sections 724.984 through 724.987 in accordance with the conditions specified in Section 724.980(d), the owner or operator must record and maintain the following information:
 - 1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in Section 724.980(d)(1).
 - 2) A description of how the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) of this Section are managed at the facility in tanks and containers. This description must include the following information:
 - A) For the tanks used at the facility to manage this hazardous waste, sufficient information must be provided to describe the following for each tank: a facility identification number for the tank, the purpose and placement of this tank in the management train of this

hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks.

- B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to describe each ~~tank~~ container: a facility identification number for the container or group of containers, the purpose and placement of this container or group of containers in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the containers.
- 3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) of this Section in the tanks or containers identified pursuant to subsection (i)(2) of this Section would create an undue safety hazard if the air emission controls specified in Sections 724.984 through 724.987 were installed and operated on these waste management units. This explanation must include the following information:
- A) For tanks used at the facility to manage this hazardous waste, sufficient information must be provided to explain the following: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under this Subpart CC, would not address those situations in which evacuation of tanks equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.
 - B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to explain the following: how use of the required air emission controls on the ~~tanks~~ containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under this Subpart CC, would not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.
- j) For each hazardous waste management unit not using air emission controls specified in Sections 724.984 through 724.987 in accordance with the

requirements of Section 724.980(b)(7), the owner and operator must record and maintain the following information:

- 1) The certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60, 61, or 63.
- 2) An identification of the specific federal requirements codified under 40 CFR 60, 61, or 63 with which the waste management unit is in compliance.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

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

AUTHORITY: Implementing Sections 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. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in

R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 725.984 Waste Determination Procedures

- a) Waste determination procedure for volatile organic (VO) concentration of a hazardous waste at the point of waste origination.
 - 1) An owner or operator must determine the average VO concentration at the point of waste origination for each hazardous waste placed in a waste management unit exempted under the provisions of Section 725.983(c)(1) from using air emission controls in accordance with standards specified in Section 725.985 through Section 725.988, as applicable to the waste management unit.
 - A) An owner or operator must make an initial determination of the average VO concentration of the waste stream before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of Section 725.983(c)(1) from using air emission controls. Thereafter, an owner or operator must make an initial determination of the average VO concentration of the waste stream for each averaging period that a hazardous waste is managed in the unit.
 - B) An owner or operator must perform a new waste determination whenever changes to the source generating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level that is equal to or greater than the VO concentration limits specified in Section 725.983(c)(1).

- 2) For a waste determination that is required by subsection (a)(1) of this Section, the average VO concentration of a hazardous waste at the point of waste origination must be determined using either direct measurement, as specified in subsection (a)(3) of this Section, or by knowledge of the waste, as specified in subsection (a)(4) of this Section.
- 3) Direct measurement to determine average VO concentration of a hazardous waste at the point of waste origination.
 - A) Identification. The owner or operator must identify and record the point of waste origination for the hazardous waste.
 - B) Sampling. Samples of the hazardous waste stream must be collected at the point of waste origination in such a manner that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.
 - i) The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis must be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream but must not exceed one year.
 - ii) A sufficient number of samples, but no fewer than four samples, must be collected for a hazardous waste determination. All of the samples for a given waste determination must be collected within a one-hour period. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.
 - iii) All samples must be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the hazardous waste stream are collected so that a

minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan must be maintained on-site in the facility operating records. An example of an acceptable sampling plan includes a plan incorporating sample collection and handling procedures in Method 25D (Determination of the Volatile Organic Concentration of Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

iv) Sufficient information, as specified in the “site sampling plan” required under subsection (a)(3)(B)(iii) of this Section, must be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous waste represented by the samples.

C) Analysis. Each collected sample must be prepared and analyzed in accordance with Method 25D in appendix A to 40 CFR 60 for the total concentration of volatile organic constituents or using one or more methods when the individual organic compound concentrations are identified and summed and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry’s law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase ($0.1 Y/X$) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/ m^3) at 25° C (77° F). At the owner’s or operator’s discretion, the owner or operator may adjust test data measured by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry’s law constant value of less than 0.1 Y/X at 25° C (77° F). To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry’s law constant value greater than or equal to 0.1 Y/X at 25° C contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the USEPA, Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) of this Section and provided the requirement is met to reflect all organic compounds in the waste with Henry’s law constant values

greater than or equal to 0.1 Y/X (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m₃) at 25° C.

- i) Any USEPA standard method that has been validated in accordance with appendix D to 40 CFR 63 (Alternative Validation Procedure for EPA Waste and Wastewater Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
- ii) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or 5.3, and the corresponding calculations in Section 6.1 or 6.3, of Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The data are acceptable if they meet the criteria specified in Section 6.1.5 or 6.3.3 of Method 301. If correction is required under Section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

D) Calculations.

- i) The average VO concentration (\bar{C}) on a mass-weighted basis must be calculated by using the results for all waste determinations conducted in accordance with subsections (a)(3)(B) and (a)(3)(C) of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

Where:

\bar{C} = Average VO concentration of the hazardous waste at the point of waste origination on a mass-weighted basis, in ppmw

i = Individual waste determination “i” of the hazardous waste

n = Total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed one year)

Q_i = Mass quantity of the hazardous waste stream represented by C_i , in kg/hr

Q_T = Total mass quantity of the hazardous waste during the averaging period, in kg/hr

C_i = Measured VO concentration of waste determination "i," as determined in accordance with subsection (a)(3)(C) of this Section (i.e., the average of the four or more samples specified in subsection (a)(3)(B)(ii) of this Section), in ppmw.

ii) For the purpose of determining C_i , for individual waste samples analyzed in accordance with subsection (a)(3)(C) of this Section, the owner or operator must account for VO concentrations determined to be below the limit of detection of the analytical method by using the VO concentration determined according to subsection (a)(3)(G) of this Section.

E) Provided that the test method is appropriate for the waste as required under subsection (a)(3)(C) of this Section, the Agency must determine compliance based on the test method used by the owner or operator as recorded pursuant to Section 725.990(f)(1).

F) The quality assurance program elements required under subsections (a)(3)(C)(vi) and (a)(3)(C)(vii) of this Section are as follows:

i) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, preparation, introduction, and analysis steps.

ii) Measurement of the overall accuracy and precision of the specific procedures.

BOARD NOTE: Subsections (a)(3)(F)(i) and (a)(3)(F)(ii) are derived from 40 CFR 265.984(a)(3)(iii)(F)(1), (a)(3)(iii)(F)(2), (a)(3)(iii)(G)(1), and (a)(3)(iii)(G)(2), which the Board has

codified here to comport with Illinois Administrative Code format requirements.

- G) VO concentrations below the limit of detection must be considered to be as follows:
 - i) If Method 25D is used for the analysis, the VO concentration must be considered to be one-half the blank value determined in the method at Section 4.4 of Method 25D.
 - ii) If any other analytical method is used, the VO concentration must be considered to be one-half the sum of the limits of detection established for each organic constituent in the waste that has a Henry's law constant value at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25° C.

BOARD NOTE: Subsections (a)(3)(G)(i) and (a)(3)(G)(ii) are derived from 40 CFR 265.984(a)(3)(iv)(A)(1) and (a)(3)(iv)(A)(2), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 4) Use of owner or operator knowledge to determine average VO concentration of a hazardous waste at the point of waste origination.
 - A) Documentation must be prepared that presents the information used as the basis for the owner's or operator's knowledge of the hazardous waste stream's average VO concentration. Examples of information that may be used as the basis for knowledge include the following: material balances for the source or process generating the hazardous waste stream; constituent-specific chemical test data for the hazardous waste stream from previous testing that are still applicable to the current waste stream; previous test data for other locations managing the same type of waste stream; or other knowledge based on information included in manifests, shipping papers, or waste certification notices.
 - B) If test data are used as the basis for knowledge, then the owner or operator must document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in the determination of the average VO concentration. For example, an owner or operator may use organic concentration test data for the hazardous waste stream that are

validated in accordance with Method 301 as the basis for knowledge of the waste.

- C) An owner or operator using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous waste may adjust the test data to the corresponding average VO concentration value that would have been obtained had the waste samples been analyzed using Method 25D. To adjust these data, the measured concentration for each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}).
 - D) In the event that the Agency and the owner or operator disagree on a determination of the average VO concentration for a hazardous waste stream using knowledge, then the results from a determination of average VO concentration using direct measurement, as specified in subsection (a)(3) of this Section, must be used to establish compliance with the applicable requirements of this Subpart CC. The Agency may perform or request that the owner or operator perform this determination using direct measurement. The owner or operator may choose one or more appropriate methods to analyze each collected sample in accordance with the requirements of subsection (a)(3)(C) of this Section.
- b) Waste determination procedures for treated hazardous waste.
- 1) An owner or operator must perform the applicable waste determination for each treated hazardous waste placed in a waste management unit exempted under the provisions of Section 725.983(c)(2)(A) through (c)(2)(F) from using air emission controls in accordance with the standards specified in Sections 725.985 through 725.988, as applicable to the waste management unit.
 - A) An owner or operator must make an initial determination of the average VO concentration of the waste stream before the first time any portion of the material in the treated waste stream is placed in the waste management unit exempt under Section 725.983(c)(2), (c)(3), or (c)(4) from using air emission controls. Thereafter, an owner or operator must update the information used for the waste determination at least once every 12 months following the date of the initial waste determination.
 - B) An owner or operator must perform a new waste determination whenever changes to the process generating or treating the waste stream are reasonably likely to cause the average VO concentration

of the hazardous waste to increase to such a level that the applicable treatment conditions specified in Section 725.983 (c)(2), (c)(3), or (c)(4) are not achieved.

- 2) The owner or operator must designate and record the specific provision in Section 725.983(c)(2) under which the waste determination is being performed. The waste determination for the treated hazardous waste must be performed using the applicable procedures specified in subsections (b)(3) through (b)(9) of this Section.
- 3) Procedure to determine the average VO concentration of a hazardous waste at the point of waste treatment.
 - A) Identification. The owner or operator must identify and record the point of waste treatment for the hazardous waste.
 - B) Sampling. Samples of the hazardous waste stream must be collected at the point of waste treatment in such a manner that volatilization of organics contained in the waste and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.
 - i) The averaging period to be used for determining the average VO concentration for the hazardous waste stream on a mass-weighted average basis must be designated and recorded. The averaging period can represent any time interval that the owner or operator determines is appropriate for the hazardous waste stream but must not exceed one year.
 - ii) A sufficient number of samples, but no fewer than four samples, must be collected and analyzed for a hazardous waste determination. All of the samples for a given waste determination must be collected within a one-hour period. The average of the four or more sample results constitutes a waste determination for the hazardous waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the process generating or treating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

- iii) All samples must be collected and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the hazardous waste stream are collected so that a minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan must be maintained on-site in the facility operating records. An example of an acceptable sample collection and handling procedures for a total organic constituent concentration may be found in Method 25D.
 - iv) Sufficient information, as specified in the “site sampling plan” required under subsection (a)(3)(B)(iii) of this Section, must be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the process treating the hazardous waste represented by the samples.
- C) Analysis. Each collected sample must be prepared and analyzed in accordance with Method 25D for the total concentration of volatile organic constituents or using one or more methods when the individual organic compound concentrations are identified and summed, and the summed waste concentration accounts for and reflects all organic compounds in the waste with Henry’s law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25°C (75° F). When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of 35 Ill. Adm. Code 724.982(c)(2)(A) through (c)(2)(F) or Section 725.983(c)(2)(A) through (c)(2)(F) are met, then the waste samples must be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. At the owner’s or operator’s discretion, the owner or operator may adjust test data obtained by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry’s law constant value less than 0.1 Y/X at 25° C. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to

adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25° C contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the USEPA, Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) of this Section and provided the requirement is met to reflect all organic compounds in the waste with Henry's law constant values greater than or equal to 0.1 Y/X (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25° C.

- i) Any USEPA standard method that has been validated in accordance with appendix D to 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
- ii) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or 5.3, and the corresponding calculations in Section 6.1 or 6.3, of Method 301 in appendix A to 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111(b). The data are acceptable if they meet the criteria specified in Section 6.1.5 or 6.3.3 of Method 301. If correction is required under Section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

D) Calculations. The average VO concentration (\bar{C}) on a mass-weighted basis must be calculated by using the results for all samples analyzed in accordance with subsection (b)(3)(C) of this Section and the following equation:

$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

Where:

\bar{C} = Average VO concentration of the hazardous waste at the point of waste treatment on a mass-weighted basis, in ppmw

i = Individual determination "i" of the hazardous waste

n = Total number of waste determinations of the hazardous waste collected for the averaging period (not to exceed one year)

Q_i = Mass quantity of the hazardous waste stream represented by C_i , in kg/hr

Q_T = Total mass quantity of hazardous waste during the averaging period, in kg/hr

C_i = Measured VO concentration of waste determinations "i," as determined in accordance with the requirements of subsection (b)(3)(C) of this Section (i.e., the average of the four or more samples specified in subsection (b)(3)(B)(ii) of this Section), in ppmw.

E) Provided that the test method is appropriate for the waste as required under subsection (b)(3)(C) of this Section, compliance must be determined based on the test method used by the owner or operator as recorded pursuant to Section 725.990(f)(1).

4) Procedure to determine the exit concentration limit (C_T) for a treated hazardous waste.

A) The point of waste origination for each hazardous waste treated by the process at the same time must be identified.

B) If a single hazardous waste stream is identified in subsection (b)(4)(A) of this Section, then the exit concentration limit (C_T) must be 500 ppmw.

C) If more than one hazardous waste stream is identified in subsection (b)(4)(A) of this Section, then the average VO concentration of each hazardous waste stream at the point of waste origination must be determined in accordance with the requirements of subsection (a) of this Section. The exit concentration limit (C_T) must be calculated by using the results determined for each individual hazardous waste stream and the following equation:

$$C_t = \frac{\sum_{x=1}^m (Q_x \bar{C}_x) + \sum_{y=1}^n (Q_y \times 500 \text{ppmw})}{\sum_{x=1}^m Q_x + \sum_{y=1}^n Q_y}$$

Where:

C_t = Exit concentration limit for treated hazardous waste, in ppmw

x = Individual hazardous waste stream “x” that has an average VO concentration less than 500 ppmw at the point of waste origination, as determined in accordance with the requirements of subsection (a) of this Section

y = Individual hazardous waste stream “y” that has an average VO concentration equal to or greater than 500 ppmw at the point of waste origination, as determined in accordance with the requirements of subsection (a) of this Section

m = Total number of “x” hazardous waste streams treated by process

n = Total number of “y” hazardous waste streams treated by process

Q_x = Annual mass quantity of hazardous waste stream “x,” in kg/yr

Q_y = Annual mass quantity of hazardous waste stream “y,” in kg/yr

\bar{C}_x = Average VO concentration of hazardous waste stream “x” at the point of waste origination, as determined in accordance with the requirements of subsection (a) of this Section, in ppmw.

- 5) Procedure to determine the organic reduction efficiency (R) for a treated hazardous waste.

- A) The organic reduction efficiency (R) for a treatment process must be determined based on results for a minimum of three consecutive runs.
- B) All hazardous waste streams entering the process and all hazardous waste streams exiting the treatment process must be identified. The owner or operator must prepare a sampling plan for measuring these streams that accurately reflects the retention time of the hazardous waste in the process.
- C) For each run, information must be determined for each hazardous waste stream identified in subsection (b)(5)(B) of this Section, using the following procedures:
- i) The mass quantity of each hazardous waste stream entering the process (Q_b) and the mass quantity of each hazardous waste stream exiting the process (Q_a) must be determined; and
 - ii) The average VO concentration at the point of waste origination of each hazardous waste stream entering the process (C_b) during the run must be determined in accordance with the requirements of subsection (a)(3) of this Section. The average VO concentration at the point of waste treatment of each hazardous waste stream exiting the process (C_a) during the run must be determined in accordance with the requirements of subsection (b)(3) of this Section.
- D) The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) must be calculated by using the results determined in accordance with subsection (b)(5)(C) of this Section and the following equations:

$$E_b = \frac{1}{10^6} \sum_{j=1}^m (Q_{bj} \times \overline{C_{bj}})$$

$$E_a = \frac{1}{10^6} \sum_{j=1}^m (Q_{aj} \times \overline{C_{aj}})$$

Where:

E_a = Waste volatile organic mass flow exiting the process, in kg/hr

E_b = Waste volatile organic mass flow entering the process, in kg/hr

m = Total number of runs (at least 3);

j = Individual run “j”

Q_{bj} = Mass quantity of hazardous waste entering the process during run “j,” in kg/hr

Q_{aj} = Average mass quantity of waste exiting the process during run “j,” in kg/hr

\overline{C}_{aj} = Average VO concentration of hazardous waste exiting the process during run “j,” as determined in accordance with the requirements of subsection (b)(3) of this Section, in ppmw

\overline{C}_{bj} = Average VO concentration of hazardous waste entering the process during run “j,” as determined in accordance with the requirements of subsection 725.984 (a)(3) of this Section, in ppmw.

- E) The organic reduction efficiency of the process must be calculated by using the results determined in accordance with subsection (b)(5)(D) of this Section and the following equation:

$$R = \frac{E_b - E_a}{E_b} \times 100\%$$

Where:

R = Organic reduction efficiency, in percent

E_b = Waste volatile organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D) of this Section, in kg/hr

E_a = Waste volatile organic mass flow exiting the process, as determined in accordance with the

requirements of subsection (b)(5)(D) of this Section, in kg/hr.

- 6) Procedure to determine the organic biodegradation efficiency (R_{bio}) for a treated hazardous waste.
- A) The fraction of organics biodegraded (F_{bio}) must be determined using the procedure specified in appendix C to 40 CFR 63 (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- B) The organic biodegradation efficiency (R_{bio}) must be calculated by using the following equation:

$$R_{\text{bio}} = F_{\text{bio}} \times 100\%$$

Where:

R_{bio} = Organic biodegradation efficiency, in percent

F_{bio} = Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b)(6)(A) of this Section.

- 7) Procedure to determine the required organic mass removal rate (RMR) for a treated hazardous waste.
- A) All of the hazardous waste streams entering the treatment process must be identified.
- B) The average VO concentration of the hazardous waste stream at the point of waste origination must be determined in accordance with the requirements of subsection (a) of this Section.
- C) For each individual hazardous waste stream that has an average volatile organic concentration equal to or greater than 500 ppmw at the point of waste origination, the average volumetric flow rate of hazardous waste and the density of the hazardous waste stream at the point of waste origination must be determined.
- D) The required organic mass removal rate (RMR) for the hazardous waste must be calculated by using the average VO concentration, average volumetric flow rate, and density determined for each individual hazardous waste stream, and the following equation:

$$\text{RMR} = \sum_{y=1}^n \left[V_y \times k_y \times \frac{(\bar{C}_y - 500\text{ppmw})}{10^6} \right]$$

Where:

RMR = Required organic mass removal rate, in kg/hr

y = Individual hazardous waste stream “y” that has an average volatile organic (VO) concentration equal to or greater than 500 ppmw at the point of waste origination, as determined in accordance with the requirements of subsection (a) of this Section

n = Total number of “y” hazardous waste streams treated by process

V_y = Average volumetric flow rate of hazardous waste stream “y” at the point of waste origination, in m³/hr

k_y = Density of hazardous waste stream “y,” in kg/m³

\bar{C}_y = Average VO concentration of hazardous waste stream “y” at the point of waste origination, as determined in accordance with the requirements of subsection (a) of this Section, in ppmw.

- 8) Procedure to determine the actual organic mass removal rate (MR) for a treated hazardous waste.
 - A) The actual organic mass removal rate (MR) must be determined based on results for a minimum of three consecutive runs. The sampling time for each run must be one hour.
 - B) The waste volatile organic mass flow entering the process (E_b) and the waste volatile organic mass flow exiting the process (E_a) must be determined in accordance with the requirements of subsection (b)(5)(D) of this Section.
 - C) The actual organic mass removal rate (MR) must be calculated by using the mass flow rate determined in accordance with the requirements of subsection (b)(8)(B) of this Section and the following equation:

$$MR = E_b - E_a$$

Where:

MR = Actual organic mass removal rate, in kg/hr

E_b = Waste volatile organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D) of this Section, in kg/hr

E_a = Waste volatile organic mass flow exiting the process, as determined in accordance with the requirements of subsection (b)(5)(D) of this Section, in kg/hr.

- 9) Procedure to determine the actual organic mass biodegradation rate (MR_{bio}) for a treated hazardous waste.
- A) The actual organic mass biodegradation rate (MR_{bio}) must be determined based on results for a minimum of three consecutive runs. The sampling time for each run must be one hour.
 - B) The waste organic mass flow entering the process (E_b) must be determined in accordance with the requirements of subsection (b)(5)(D) of this Section.
 - C) The fraction of organic biodegraded (F_{bio}) must be determined using the procedure specified in appendix C to 40 CFR 63 (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - D) The actual organic mass biodegradation rate (MR_{bio}) must be calculated by using the mass flow rates and fraction of organic biodegraded, as determined in accordance with the requirements of subsections (b)(9)(B) and (b)(9)(C) of this Section, respectively, and the following equation:

$$MR_{bio} = E_b \times F_{bio}$$

Where:

MR_{bio} = Actual organic mass biodegradation rate, in kg/hr

E_b = Waste organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D) of this Section, in kg/hr

F_{bio} = Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b)(9)(C) of this Section.

- c) Procedure to determine the maximum organic vapor pressure of a hazardous waste in a tank.
- 1) An owner or operator must determine the maximum organic vapor pressure for each hazardous waste placed in a tank using Tank Level 1 controls in accordance with standards specified in Section 725.985(c).
 - 2) An owner or operator must use either direct measurement, as specified in subsection (c)(3) of this Section, or knowledge of the waste, as specified by subsection (c)(4) of this Section, to determine the maximum organic vapor pressure that is representative of the hazardous waste composition stored or treated in the tank.
 - 3) Direct measurement to determine the maximum organic vapor pressure of a hazardous waste.
 - A) Sampling. A sufficient number of samples must be collected to be representative of the waste contained in the tank. All samples must be conducted and handled in accordance with written procedures prepared by the owner or operator and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the hazardous waste are collected so that a minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan must be maintained on-site in the facility operating records. An example of acceptable sample collection and handling procedures may be found in Method 25D.
 - B) Analysis. Any appropriate one of the following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous waste:
 - i) Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

- ii) Methods described in API publication 2517 (Evaporative Loss from External Floating-Roof Tanks), incorporated by reference in 35 Ill. Adm. Code 720.111(a);
 - iii) Methods obtained from standard reference texts;
 - iv) ASTM Method D 2879-92 (Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope), incorporated by reference in 35 Ill. Adm. Code 720.111(a);
or
 - v) Any other method approved by the Agency.
- 4) Use of knowledge to determine the maximum organic vapor pressure of the hazardous waste. Documentation must be prepared and recorded that presents the information used as the basis for the owner's or operator's knowledge that the maximum organic vapor pressure of the hazardous waste is less than the maximum vapor pressure limit listed in Section 725.985(b)(1)(A) for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous waste is generated by a process for which at other locations it previously has been determined by direct measurement that the waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.
- d) The procedure for determining no detectable organic emissions for the purpose of complying with this Subpart CC is as follows:
- 1) The test must be conducted in accordance with the procedures specified in Method 21 (Determination of Volatile Organic Compound Leaks) of appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b). Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the cover and associated closure devices must be checked. Potential leak interfaces that are associated with covers and closure devices include, but are not limited to, any of the following: the interface of the cover and its foundation mounting, the periphery of any opening on the cover and its associated closure device, and the sealing seat interface on a spring-loaded pressure relief valve.
 - 2) The test must be performed when the unit contains a hazardous waste having an organic concentration representative of the range of concentrations for the hazardous waste expected to be managed in the unit. During the test, the cover and closure devices must be secured in the closed position.

- 3) The detection instrument must meet the performance criteria of Method 21, except the instrument response factor criteria in Section 3.1.2(a) of Method 21 must be for the average composition of the organic constituents in the hazardous waste placed in the waste management unit, not for each individual organic constituent.
- 4) The detection instrument must be calibrated before use on each day of its use by the procedures specified in Method 21.
- 5) Calibration gases must be as follows:
 - A) Zero air (less than 10 ppmv hydrocarbon in air), and
 - B) A mixture of methane or n-hexane in air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.
- 6) The background level must be determined according to the procedures in Method 21.
- 7) Each potential leak interface must be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21. In the case when the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface must be sampled. In the case when the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief devices), the instrument probe inlet must be placed at approximately the center of the exhaust area to the atmosphere.
- 8) The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level must be compared with the value of 500 ppmv except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison must be as specified in subsection (d)(9) of this Section. If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.
- 9) For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level must be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 725.985 Standards: Tanks

- a) The provisions of this Section apply to the control of air pollutant emissions from tanks for which Section 725.983(b) references the use of this Section for such air emission control.
- b) The owner or operator must control air pollutant emissions from each tank subject to this Section in accordance with the following requirements, as applicable:
 - 1) For a tank that manages hazardous waste that meets all of the conditions specified in subsections (b)(1)(A) through (b)(1)(C) of this Section, the owner or operator must control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in subsection (c) of this Section or the Tank Level 2 controls specified in subsection (d) of this Section.
 - A) The hazardous waste in the tank has a maximum organic vapor pressure that is less than the maximum organic vapor pressure limit for the tank's design capacity category, as follows:
 - i) For a tank design capacity equal to or greater than 151 m³ (5333 ft³ or 39,887 gal), the maximum organic vapor pressure limit for the tank is 5.2 kPa (0.75 psia or 39 mm Hg);
 - ii) For a tank design capacity equal to or greater than 75 m³ (2649 ft³ or 19,810 gal) but less than 151 m³ (5333 ft³ or 39,887 gal), the maximum organic vapor pressure limit for the tank is 27.6 kPa (4.0 psia or 207 mm Hg); or
 - iii) For a tank design capacity less than 75 m³ (2649 ft³ or 19,810 gal), the maximum organic vapor pressure limit for the tank is 76.6 kPa (11.1 psia or 574 mm Hg).
 - B) The hazardous waste in the tank is not heated by the owner or operator to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous waste is determined for the purpose of complying with subsection (b)(1)(A) of this Section.
 - C) The hazardous waste in the tank is not treated by the owner or operator using a waste stabilization process, as defined in Section 725.981.

- 2) For a tank that manages hazardous waste that does not meet all of the conditions specified in subsections (b)(1)(A) through (b)(1)(C) of this Section, the owner or operator must control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of subsection (d) of this Section. Examples of tanks required to use Tank Level 2 controls include the following: a tank used for a waste stabilization process and a tank for which the hazardous waste in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category, as specified in subsection (b)(1)(A) of this Section.
- c) An owner or operator controlling air pollutant emissions from a tank using Tank Level 1 controls must meet the requirements specified in subsections (c)(1) through (c)(4) of this Section:
 - 1) The owner or operator must determine the maximum organic vapor pressure for a hazardous waste to be managed in the tank using Tank Level 1 controls before the first time the hazardous waste is placed in the tank. The maximum organic vapor pressure must be determined using the procedures specified in Section 725.984(c). Thereafter, the owner or operator must perform a new determination whenever changes to the hazardous waste managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in subsection (b)(1)(A) of this Section, as applicable to the tank.
 - 2) The tank must be equipped with a fixed roof designed to meet the following specifications:
 - A) The fixed roof and its closure devices must be designed to form a continuous barrier over the entire surface area of the hazardous waste in the tank. The fixed roof may be a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch).
 - B) The fixed roof must be installed in such a manner that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.
 - C) Either of the following must be true of each opening in the fixed roof and of any manifold system associated with the fixed roof must be either:

- i) The opening or manifold system is equipped with a closure device designed to operate so that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or
 - ii) The opening or manifold system is connected by a closed-vent system that is vented to a control device. The control device must remove or destroy organics in the vent stream, and it must be operating whenever hazardous waste is managed in the tank, except as provided for in subsection (c)(2)(E).
- D) The fixed roof and its closure devices must be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and which will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices must include the following: organic vapor permeability; the effects of any contact with the hazardous waste or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.
- E) The control device operated pursuant to subsection (c)(2)(C) of this Section needs not remove or destroy organics in the vent stream under the following conditions:
 - i) During periods when it is necessary to provide access to the tank for performing the activities of subsection (c)(2)(E)(ii) of this Section, venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operation of the control device; and
 - ii) During periods of routine inspection, maintenance, or other activities needed for normal operations, and for the removal of accumulated sludge or other residues from the bottom of the tank.

BOARD NOTE: Subsections (c)(2)(E)(i) and (c)(2)(E)(ii) are derived from 40 CFR 265.985(c)(2)(iii)(B)(1) and (c)(2)(iii)(B)(2), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 3) Whenever a hazardous waste is in the tank, the fixed roof must be installed with each closure device secured in the closed position, except as follows:
 - A) Opening of closure devices or removal of the fixed roof is allowed at the following times:
 - i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample the liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.
 - ii) To remove accumulated sludge or other residues from the bottom of tank.
 - B) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the tank internal pressure in accordance with the tank design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the tank internal pressure is within the internal pressure operating range determined by the owner or operator based on the tank manufacturer recommendations; applicable regulations; fire protection and prevention codes; standard engineering codes and practices; or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or diurnal ambient temperature fluctuations.

- C) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator must inspect the air emission control equipment in accordance with the following requirements.
- A) The fixed roof and its closure devices must be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.
 - B) The owner or operator must perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator must perform the inspections at least once every year, except under the special conditions provided for in subsection (l) of this Section.
 - C) In the event that a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k) of this Section.
 - D) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(b).
- d) An owner or operator controlling air pollutant emissions from a tank using Tank Level 2 controls must use one of the following tanks:
- 1) A fixed-roof tank equipped with an internal floating roof in accordance with the requirements specified in subsection (e) of this Section;
 - 2) A tank equipped with an external floating roof in accordance with the requirements specified in subsection (f) of this Section;
 - 3) A tank vented through a closed-vent system to a control device in accordance with the requirements specified in subsection (g) of this Section;
 - 4) A pressure tank designed and operated in accordance with the requirements specified in subsection (h) of this Section; or

- 5) A tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in subsection (i) of this Section.
- e) The owner or operator that controls air pollutant emissions from a tank using a fixed roof with an internal floating roof must meet the requirements specified in subsections (e)(1) through (e)(3) of this Section.
- 1) The tank must be equipped with a fixed roof and an internal floating roof in accordance with the following requirements:
 - A) The internal floating roof must be designed to float on the liquid surface except when the floating roof must be supported by the leg supports.
 - B) The internal floating roof must be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:
 - i) A single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in Section 725.981; or
 - ii) Two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal.
 - C) The internal floating roof must meet the following specifications:
 - i) Each opening in a noncontact internal floating roof except for automatic bleeder vents (vacuum breaker vents) and the rim space vents is to provide a projection below the liquid surface;
 - ii) Each opening in the internal floating roof must be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains;
 - iii) Each penetration of the internal floating roof for the purpose of sampling must have a slit fabric cover that covers at least 90 percent of the opening;
 - iv) Each automatic bleeder vent and rim space vent must be gasketed;
 - v) Each penetration of the internal floating roof that allows for passage of a ladder must have a gasketed sliding cover; and

- vi) Each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof must have a flexible fabric sleeve seal or a gasketed sliding cover.
- 2) The owner or operator must operate the tank in accordance with the following requirements:
- A) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling must be continuous and must be completed as soon as practical;
 - B) Automatic bleeder vents are to be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports; and
 - C) Prior to filling the tank, each cover, access hatch, gauge float well or lid on any opening in the internal floating roof must be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting.
- 3) The owner or operator must inspect the internal floating roof in accordance with the procedures specified as follows:
- A) The floating roof and its closure devices must be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to, the following: when the internal floating roof is not floating on the surface of the liquid inside the tank; when liquid has accumulated on top of the internal floating roof; when any portion of the roof seals have detached from the roof rim; when holes, tears, or other openings are visible in the seal fabric; when the gaskets no longer close off the hazardous waste surface from the atmosphere; or when the slotted membrane has more than 10 percent open area;
 - B) The owner or operator must inspect the internal floating roof components as follows, except as provided in subsection (e)(3)(C) of this Section:
 - i) Visually inspect the internal floating roof components through openings on the fixed roof (e.g., manholes and roof hatches) at least once every 12 months after initial fill, and

- ii) Visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least once every 10 years;
- C) As an alternative to performing the inspections specified in subsection (e)(3)(B) of this Section for an internal floating roof equipped with two continuous seals mounted one above the other, the owner or operator may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every five years;
- D) Prior to each inspection required by subsection (e)(3)(B) or (e)(3)(C) of this Section, the owner or operator must notify the Agency in advance of each inspection to provide the Agency with the opportunity to have an observer present during the inspection. The owner or operator must notify the Agency of the date and location of the inspection as follows:
 - i) Prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification must be prepared and sent by the owner or operator so that it is received by the Agency at least 30 calendar days before refilling the tank, except when an inspection is not planned, as provided for in subsection (e)(3)(D)(ii) of this Section; and
 - ii) When a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator must notify the Agency as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Regional Administrator at least seven calendar days before refilling the tank;
- E) In the event that a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k) of this Section; and

- F) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(b).
- 4) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any tank complying with the requirements of this subsection (e).
- f) The owner or operator that controls air pollutant emissions from a tank using an external floating roof must meet the requirements specified in subsections (f)(1) through (f)(3) of this Section.
- 1) The owner or operator must design the external floating roof in accordance with the following requirements:
 - A) The external floating roof must be designed to float on the liquid surface except when the floating roof must be supported by the leg supports;
 - B) The floating roof must be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal.
 - i) The primary seal must be a liquid-mounted seal or a metallic shoe seal, as defined in Section 725.981. The total area of the gaps between the tank wall and the primary seal must not exceed 212 square centimeters (cm²) per meter (10.0 in² per foot) of tank diameter, and the width of any portion of these gaps must not exceed 3.8 centimeters (cm) (1.5 inches). If a metallic shoe seal is used for the primary seal, the metallic shoe seal must be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters (24 inches) above the liquid surface.
 - ii) The secondary seal must be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal must not exceed 21.2 cm² per meter (1.0 in² per foot) of tank diameter, and the width of any portion of these gaps must not exceed 1.3 cm (0.5 inch); and
 - C) The external floating roof must meet the following specifications:

- i) Except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof must provide a projection below the liquid surface;
 - ii) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof must be equipped with a gasketed cover, seal, or lid;
 - iii) Each access hatch and each gauge float well must be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position;
 - iv) Each automatic bleeder vent and each rim space vent must be equipped with a gasket;
 - v) Each roof drain that empties into the liquid managed in the tank must be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening;
 - vi) Each unslotted and slotted guide pole well must be equipped with a gasketed sliding cover or a flexible fabric sleeve seal;
 - vii) Each unslotted guide pole must be equipped with a gasketed cap on the end of the pole;
 - viii) Each slotted guide pole must be equipped with a gasketed float or other device that closes off the liquid surface from the atmosphere; and
 - ix) Each gauge hatch and each sample well must be equipped with a gasketed cover.
- 2) The owner or operator must operate the tank in accordance with the following requirements:
- A) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling must be continuous and must be completed as soon as practical;
 - B) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof must be secured and maintained in a closed position at all times except when the closure device must be open for access;

- C) Covers on each access hatch and each gauge float well must be bolted or fastened when secured in the closed position;
 - D) Automatic bleeder vents must be set closed at all times when the roof is floating, except when the roof is being floated off or is being landed on the leg supports;
 - E) Rim space vents must be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting;
 - F) The cap on the end of each unslotted guide pole must be secured in the closed position at all times except when measuring the level or collecting samples of the liquid in the tank;
 - G) The cover on each gauge hatch or sample well must be secured in the closed position at all times except when the hatch or well must be opened for access; and
 - H) Both the primary seal and the secondary seal must completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections.
- 3) The owner or operator must inspect the external floating roof in accordance with the procedures specified as follows:
- A) The owner or operator must measure the external floating roof seal gaps in accordance with the following requirements:
 - i) The owner or operator must perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every five years;
 - ii) The owner or operator must perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once every year;
 - iii) If a tank ceases to hold hazardous waste for a period of one year or more, subsequent introduction of hazardous waste into the tank must be considered an initial operation for the

purposes of subsections (f)(3)(A)(i) and (f)(3)(A)(ii) of this Section;

- iv) The owner or operator must determine the total surface area of gaps in the primary seal and in the secondary seal individually using the procedure set forth in subsection ~~(f)(4)(D)~~ (f)(3)(D) of this Section;
 - v) In the event that the seal gap measurements do not conform to the specifications in subsection (f)(1)(B) of this Section, the owner or operator must repair the defect in accordance with the requirements of subsection (k) of this Section; and
 - vi) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(b);
- B) The owner or operator must visually inspect the external floating roof in accordance with the following requirements:
- i) The floating roof and its closure devices must be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to any of the following: holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;
 - ii) The owner or operator must perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator must perform the inspections at least once every year except for the special conditions provided for in subsection (l) of this Section;
 - iii) In the event that a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k) of this Section; and

- iv) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(b);
- C) Prior to each inspection required by subsection (f)(3)(A) or (f)(3)(B) of this Section, the owner or operator must notify the Agency in advance of each inspection to provide the Agency with the opportunity to have an observer present during the inspection. The owner or operator must notify the Agency of the date and location of the inspection as follows:
- i) Prior to each inspection to measure external floating roof seal gaps as required under subsection (f)(3)(A) of this Section, written notification must be prepared and sent by the owner or operator so that it is received by the Agency at least 30 calendar days before the date the measurements are scheduled to be performed;
 - ii) Prior to each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification must be prepared and sent by the owner or operator so that it is received by the Agency at least 30 calendar days before refilling the tank except when an inspection is not planned, as provided for in subsection (f)(3)(C)(iii) of this Section; and
 - iii) When a visual inspection is not planned and the owner or operator could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator must notify the Agency as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Regional Administrator at least seven calendar days before refilling the tank;
- D) Procedure for determining gaps in the primary seal and in the secondary seal for the purposes of subsection (f)(3)(A)(iv) of this Section:
- i) The seal gap measurements must be performed at one or more floating roof levels when the roof is floating off the roof supports;

- ii) Seal gaps, if any, must be measured around the entire perimeter of the floating roof in each place where a 0.32-cm (1/4-inch) diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each such location;
- iii) For a seal gap measured under this subsection (f)(3), the gap surface area must be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance; and
- iv) The total gap area must be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type, as specified in subsection (f)(1)(B) of this Section; and

BOARD NOTE: Subsections (f)(3)(D)(i) through (f)(3)(D)(iv) are derived from 40 CFR 265.1085(f)(3)(i)(D)(1) through (f)(3)(i)(D)(4), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 4) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any tank complying with the requirements of this subsection (f).
- g) The owner or operator that controls air pollutant emissions from a tank by venting the tank to a control device must meet the requirements specified in subsections (g)(1) through (g)(3) of this Section.
 - 1) The tank must be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the following requirements:
 - A) The fixed roof and its closure devices must be designed to form a continuous barrier over the entire surface area of the liquid in the tank;
 - B) Each opening in the fixed roof not vented to the control device must be equipped with a closure device. If the pressure in the

vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices must be designed to operate so that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device must be designed to operate with no detectable organic emissions;

- C) The fixed roof and its closure devices must be made of suitable materials that will minimize exposure of the hazardous waste to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices must include the following: organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed; and
 - D) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 725.988.
- 2) Whenever a hazardous waste is in the tank, the fixed roof must be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:
- A) Venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:
 - i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of such activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank; and

- ii) To remove accumulated sludge or other residues from the bottom of a tank; and
 - B) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 3) The owner or operator must inspect and monitor the air emission control equipment in accordance with the following procedures:
 - A) The fixed roof and its closure devices must be visually inspected by the owner or operator to check for defects that could result in air pollutant emissions. Defects include, but are not limited to any of the following: visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices;
 - B) The closed-vent system and control device must be inspected and monitored by the owner or operator in accordance with the procedures specified in Section 725.988;
 - C) The owner or operator must perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this Section. Thereafter, the owner or operator must perform the inspections at least once every year except for the special conditions provided for in subsection (l) of this Section;
 - D) In the event that a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k) of this Section; and
 - E) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(b).
- h) The owner or operator that controls air pollutant emissions by using a pressure tank must meet the following requirements:
 - 1) The tank must be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity;
 - 2) All tank openings must be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in Section 725.984(d); and

- 3) Whenever a hazardous waste is in the tank, the tank must be operated as a closed-vent system that does not vent to the atmosphere, except under either of the following two conditions:
 - A) The tank does not need to be operated as a closed-vent system at those times when the opening of a safety device, as defined in Section 725.981, is required to avoid an unsafe condition; and
 - B) The tank does not need to be operated as a closed-vent system at those times when the purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of Section 724.987.
- i) The owner or operator that controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device must meet the requirements specified in subsections (i)(1) through (i)(4) of this Section.
 - 1) The tank must be located inside an enclosure. The enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure as specified in Section 5.0 to “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually;
 - 2) The enclosure must be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in Section 725.988;
 - 3) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of subsections (i)(1) and (i)(2) of this Section; and
 - 4) The owner or operator must inspect and monitor the closed-vent system and control device, as specified in Section 725.988.

- j) The owner or operator must transfer hazardous waste to a tank subject to this Section in accordance with the following requirements:
- 1) Transfer of hazardous waste, except as provided in subsection (j)(2) of this Section, to the tank from another tank subject to this Section or from a surface impoundment subject to Section 725.986 must be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous waste to the atmosphere. For the purpose of complying with this provision, an individual drain system is considered to be a closed system when it meets the requirements of subpart RR of 40 CFR 63 (National Emission Standards for Individual Drain Systems), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and
 - 2) The requirements of subsection (j)(1) of this Section do not apply when transferring a hazardous waste to the tank under any of the following conditions:
 - A) The hazardous waste meets the average VO concentration conditions specified in Section 725.983(c)(1) at the point of waste origination;
 - B) The hazardous waste has been treated by an organic destruction or removal process to meet the requirements in Section 725.983(c)(2); and
 - C) The hazardous waste meets the requirements of Section 725.983(c)(4).
- k) The owner or operator must repair each defect detected during an inspection performed in accordance with the requirements of subsection (c)(4), (e)(3), (f)(3), or (g)(3) of this Section as follows:
- 1) The owner or operator must make first efforts at repair of the defect no later than five calendar days after detection, and repair must be completed as soon as possible but no later than 45 calendar days after detection except as provided in subsection (k)(2) of this Section; and
 - 2) Repair of a defect may be delayed beyond 45 calendar days if the owner or operator determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the hazardous waste normally managed in the tank. In this case, the owner or operator must repair the defect the next time the process or unit that is generating the hazardous waste managed in the tank stops operation. Repair of the defect must be completed before the process or unit resumes operation.

- 1) Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subpart CC, subsequent inspection and monitoring may be performed at intervals longer than one year under the following special conditions:
 - 1) Where inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the owner or operator may designate a cover as an “unsafe to inspect and monitor cover” and comply with all of the following requirements:
 - A) Prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and
 - B) Develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable Section of this Subpart CC, as frequently as practicable during those times when a worker can safely access the cover; and
 - 2) In the case when a tank is buried partially or entirely underground, an owner or operator is required to inspect and monitor, as required by the applicable provisions of this Section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 725.987 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 725.983(b) references the use of this Section for such air emission control.
- b) General requirements.
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the following special provisions for waste stabilization processes specified in subsection (b)(2) of this Section apply to the container:
 - A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in

accordance with the Container Level 1 standards specified in subsection (c) of this Section;

- B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c) of this Section; and
- C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d) of this Section.

- 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) of this Section at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.

c) Container Level 1 standards.

- 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f) of this Section;
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap); and
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.

- 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) of this Section must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
- 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) In the case when the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
 - B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the container internal pressure in accordance with the design specifications of the container. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for

the container as a result of loading operations or diurnal ambient temperature fluctuations; and

- E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section;
 - B) In the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C) of this Section; and
 - C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be

completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater which do not meet applicable USDOT regulations, as specified in subsection (f) of this Section, are not managing hazardous waste in light material service.
- d) Container Level 2 standards.
- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation as specified in subsection (f) of this Section;
 - B) A container that operates with no detectable organic emissions, as defined in Section 725.981, and determined in accordance with the procedure specified in subsection (g) of this Section; and
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h) of this Section.
 - 2) Transfer of hazardous waste into or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:
 - i) In the case when the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
 - B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
 - i) For the purpose of meeting the requirements of this Section, an empty container as defined in 35 Ill. Adm. Code 721.107(b) may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15

minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
 - D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
 - E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not

meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section;

- B) In the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C) of this Section; and
- C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

e) Container Level 3 standards.

- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B) of this Section; or

- B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B) of this Section.
- 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
- A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 to “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually; and
 - B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 725.988.
- 3) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1) of this Section.
- 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 725.988.
- 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 725.990(d).
- 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable,

explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A) of this Section, containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers—General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the federal 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4) of this Section; and
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings) for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirements of subsection (d)(1)(B) of this Section, the procedure specified in Section 725.984(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that

are associated with containers include, but are not limited to: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

- 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) The procedure for determining a container to be vapor-tight using Method 27 for the purpose of complying with subsection (d)(1)(C) of this Section is as follows:
- 1) The test must be performed in accordance with Method 27;
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.10 inch) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness; and
 - 3) If the test results determined by Method 27 indicate that the container sustains a pressure change less than or equal to 750 Pascals (0.11 psig) within five minutes after it is pressurized to a minimum of 4,500 Pascals (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 725.990 Recordkeeping Requirements

- a) Each owner or operator of a facility subject to the requirements in this Subpart CC must record and maintain the information specified in subsections (b) through (j) of this Section, as applicable to the facility. Except for air emission control equipment design documentation and information required by ~~subsection~~ subsections (i) and (j) of this Section, records required by this Section must be maintained in the operating record for a minimum of three years. Air emission control equipment design documentation must be maintained in the operating record until the air emission control equipment is replaced or is otherwise no longer in service. Information required by subsections (i) and (j) of this Section must be maintained in the operating record for as long as the waste management unit is not using air emission controls specified in Sections 725.985 through 725.988, in accordance with the conditions specified in Section 725.980(d) or (b)(7), respectively.
- b) The owner or operator of a tank using air emission controls in accordance with the requirements of Section 725.985 must prepare and maintain records for the tank that include the following information:

- 1) For each tank using air emission controls in accordance with the requirements of Section 725.985 of this Subpart CC, the owner or operator must record the following information:
 - A) A tank identification number (or other unique identification description as selected by the owner or operator); and
 - B) A record for each inspection required by Section 725.985 that includes the following information:
 - i) Date inspection was conducted; and
 - ii) For each defect detected during the inspection, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.985, the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected; and
- 2) In addition to the information required by subsection (b)(1) of this Section, the owner or operator must record the following information, as applicable to the tank:
 - A) The owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in Section 725.985(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of Section 725.985(c). The records must include the date and time the samples were collected, the analysis method used, and the analysis results;
 - B) The owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(e) must prepare and maintain documentation describing the floating roof design;
 - C) Owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(f) must prepare and maintain the following records:
 - i) Documentation describing the floating roof design and the dimensions of the tank; and

- ii) Records for each seal gap inspection required by Section 725.985(f)(3) describing the results of the seal gap measurements. The records must include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in Section 725.985(f)(1), the records must include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.
 - D) Each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in Section 725.985(i) must prepare and maintain the following records:
 - i) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and
 - ii) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.
- c) The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of Section 725.986 must prepare and maintain records for the surface impoundment that include the following information:
 - 1) A surface impoundment identification number (or other unique identification description as selected by the owner or operator);
 - 2) Documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Section 725.986(c);
 - 3) A record for each inspection required by Section 725.986 that includes the following information:

- A) Date inspection was conducted; and
 - B) For each defect detected during the inspection the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.986(f), the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected; and
- 4) For a surface impoundment equipped with a cover and vented through a closed-vent system to a control device, the owner or operator must prepare and maintain the records specified in subsection (e) of this Section.
- d) The owner or operator of containers using Container Level 3 air emission controls in accordance with the requirements of Section 725.987 must prepare and maintain records that include the following information:
- 1) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and
 - 2) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.
- e) The owner or operator using a closed-vent system and control device in accordance with the requirements of Section 725.988 must prepare and maintain records that include the following information:
- 1) Documentation for the closed-vent system and control device that includes the following:
 - A) Certification that is signed and dated by the owner or operator stating that the control device is designed to operate at the performance level documented by a design analysis as specified in subsection (e)(1)(B) of this Section or by performance tests as specified in subsection (e)(1)(C) of this Section when the tank, surface impoundment, or container is or would be operating at capacity or the highest level reasonably expected to occur;
 - B) If a design analysis is used, then design documentation, as specified in Section 725.935(b)(4). The documentation must

include information prepared by the owner or operator or provided by the control device manufacturer or vendor that describes the control device design in accordance with Section 725.935(b)(4)(C) and certification by the owner or operator that the control equipment meets the applicable specifications;

- C) If performance tests are used, then a performance test plan as specified in Section 725.935(b)(3) and all test results;
- D) Information as required by Section 725.935(c)(1) and (c)(2), as applicable;
- E) An owner or operator must record, on a semiannual basis, the following information for those planned routine maintenance operations that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:
 - i) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description must include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and
 - ii) A description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description must include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable, due to planned routine maintenance;
- F) An owner or operator must record the following information for those unexpected control device system malfunctions that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:
 - i) The occurrence and duration of each malfunction of the control device system;
 - ii) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and

- iii) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation; and
 - G) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with Section 725.988(c)(3)(B).
- f) The owner or operator of a tank, surface impoundment, or container exempted from standards in accordance with the provisions of Section 725.983(c) must prepare and maintain the following records, as applicable:
 - 1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in Section 725.983 (c)(1) or 725.983(c)(2)(A) through (c)(2)(F), the owner or operator must record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator must record the date, time, and location that each waste sample is collected in accordance with the applicable requirements of Section 725.984; and
 - 2) For tanks, surface impoundments, or containers exempted under the provisions of Section 725.983(c)(2)(G) or (c)(2)(H), the owner or operator must record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.
- g) An owner or operator designating a cover as “unsafe to inspect and monitor” pursuant to Section 725.985(l) or 725.986(g) must record in a log that is kept in the facility operating record the following information: the identification numbers for waste management units with covers that are designated as “unsafe to inspect and monitor,” the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.
- h) The owner or operator of a facility that is subject to this Subpart CC and to the control device standards in federal subpart VV of 40 CFR 60 (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), or subpart V of 40 CFR 61 (National Emission Standard for Equipment Leaks (Fugitive Emission Sources), each incorporated by reference in 35 Ill. Adm. Code 270.111, may elect to demonstrate compliance with the applicable Sections of this Subpart by documentation either pursuant to this Subpart CC, or pursuant to the provisions of subpart VV of 40 CFR 60 or subpart V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or 61 duplicates the documentation required by this Section.

- i) For each tank or container not using air emission controls specified in Sections 725.985 through 725.988 in accordance with the conditions specified in Section 725.980(d), the owner or operator must record and maintain the following information:
 - 1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in Section 725.980(d)(1);
 - 2) A description of how the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) are managed at the facility in tanks and containers. This description must include the following information:
 - A) For the tanks used at the facility to manage this hazardous waste, sufficient information must be provided to describe each tank: a facility identification number for the tank, the purpose and placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and
 - B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to describe the following for each container: a facility identification number for the container or group of containers; the purpose and placement of this container or group of containers in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers; and
 - 3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) of this Section in the tanks or containers identified pursuant to subsection (i)(2) of this Section would create an undue safety hazard if the air emission controls specified in Sections 725.985 through 725.988 were installed and operated on these waste management units. This explanation must include the following information:
 - A) For tanks used at the facility to manage this hazardous waste, sufficient information must be provided to explain: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this hazardous waste in the tanks; and why installation of safety devices on the required air emission controls, as allowed under this Subpart CC, would not address those situations in which evacuation of tanks equipped with these air emission controls is

necessary and consistent with good engineering and safety practices for handling organic peroxides; and

- B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to explain: how use of the required air emission controls on the containers would affect the container design features and handling procedures currently used to prevent an undue safety hazard during management of this hazardous waste in the containers; and why installation of safety devices on the required air emission controls, as allowed under this Subpart CC, would not address those situations in which evacuation of containers equipped with these air emission controls is necessary and consistent with good engineering and safety practices for handling organic peroxides.
- j) For each hazardous waste management unit not using air emission controls specified in Sections 725.985 through 725.988 in accordance with the provisions of Section 725.980(b)(7), the owner and operator must record and maintain the following information:
- 1) The certification that the waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60, 61, or 63; and
 - 2) An identification of the specific federal requirements codified under 40 CFR 60, 61, or 63 with which the waste management unit is in compliance.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 726
STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS
WASTE AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT
FACILITIES

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726.APPENDIX A	Tier I and Tier II Feed Rate and Emissions Screening Limits for Metals
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726.TABLE A	Exempt Quantities for Small Quantity Burner Exemption

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 R85-22 at 10 Ill. Reg. 1162, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 Ill. Reg. 2900, effective January 15, 1988; amended in R89-1 at 13 Ill. Reg. 18606, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14533, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9727, effective June 17, 1991; amended in R91-13 at 16 Ill. Reg. 9858, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5865, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20904, effective November 22, 1993; amended in R94-7 at 18 Ill. Reg. 12500, effective July 29, 1994; amended in R95-6 at 19 Ill. Reg. 10006, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11263, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 754, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 18042, effective September 28, 1998; amended in R99-15 at 23 Ill. Reg. 9482, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9853, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6667, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 4200, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12916, effective July 17, 2003; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3700, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1096, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12741, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 18117, effective October 14, 2011; amended in R13-5 at 37 Ill.

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND
INDUSTRIAL FURNACES

Section 726.200 Applicability

- a) The regulations of this Subpart H apply to hazardous waste burned or processed in a boiler or industrial furnace (BIF) (as defined in 35 Ill. Adm. Code 720.110) irrespective of the purpose of burning or processing, except as provided by subsections (b), (c), (d), (g), and (h) of this Section. In this Subpart H, the term “burn” means burning for energy recovery or destruction or processing for materials recovery or as an ingredient. The emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 apply to facilities operating under interim status or under a RCRA permit, as specified in Sections 726.202 and 726.203.

- b) Integration of the MACT standards.
 - 1) Except as provided by subsections (b)(2), (b)(3), and (b)(4) of this Section, the standards of this Part do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, pursuant to 40 CFR 63.1207(j) (What are the performance testing requirements?) and 63.1210(d) (What are the notification requirements?), documenting compliance with the requirements of federal subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

 - 2) The following standards continue to apply:
 - A) If an owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Section 726.202(e)(1), requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the

unit, and Section 726.202(e)(2)(C), requiring compliance with the emission standards and operating requirements, during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

- B) The closure requirements of Sections 726.202(e)(11) and 726.203(I);
 - C) The standards for direct transfer of Section 726.211;
 - D) The standards for regulation of residues of Section 726.212; and
 - E) The applicable requirements of Subparts A through H, BB, and CC of 35 Ill. Adm. Code 724 and 725.
- 3) The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as 40 CFR 63), that has not elected to comply with the emission standards of 40 CFR 63.1216, 63.1217, and 63.1218, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63), for particulate matter, semivolatile and low volatile metals, and total chlorine, also remains subject to the following requirements of this Part:
- A) Section 726.205 (Standards to Control PM);
 - B) Section 726.206 (Standards to Control Metals Emissions); and
 - C) Section 726.207 (Standards to Control HCl and Chlorine Gas Emissions).
- 4) The particulate matter standard of Section 726.205 remains in effect for a boiler that elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1218, each incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act [415 ILCS 5/9.1 and 39.5] make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (November 30, 1999)):

Under [the approach adopted by USEPA as a] final rule, MACT air emissions and related operating requirements are to be included in title V permits; RCRA permits will continue to be required for all

other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

- c) The following hazardous wastes and facilities are not subject to regulation pursuant to this Subpart H:
- 1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Such used oil is subject to regulation pursuant to 35 Ill. Adm. Code 739, rather than this Subpart H;
 - 2) Gas recovered from hazardous or solid waste landfills, when such gas is burned for energy recovery;
 - 3) Hazardous wastes that are exempt from regulation pursuant to 35 Ill. Adm. Code 721.104 and 721.106(a)(3)(C) and (a)(3)(D) and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators pursuant to 35 Ill. Adm. Code 721.105; and
 - 4) Coke ovens, if the only hazardous waste burned is USEPA hazardous waste no. K087 decanter tank tar sludge from coking operations.
- d) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices, such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation pursuant to this Subpart H, except for Sections 726.201 and 726.212.
- 1) To be exempt from Sections 726.202 through 726.211, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dust emitted by steel manufacturing must comply with the requirements of subsection (d)(3) of this Section, and an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of federal subpart X of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting) must comply with the requirements of subsection (h) of this Section:
 - A) Provide a one-time written notice to the Agency indicating the following:

- i) The owner or operator claims exemption pursuant to this subsection (d);
 - ii) The hazardous waste is burned solely for metal recovery consistent with the provisions of subsection (d)(2) of this Section;
 - iii) The hazardous waste contains recoverable levels of metals; and
 - iv) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection (d);
 - B) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subsection (d) by using appropriate methods; and
 - C) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection (d), including limits on levels of toxic organic constituents and Btu value of the waste and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.
- 2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:
- A) The hazardous waste has a total concentration of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 exceeding 500 ppm by weight, as fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited, and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section; or
 - B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and is so considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section.

- 3) To be exempt from Sections 726.202 through 726.211, an owner or operator of a lead, nickel-chromium, or mercury recovery furnace, except for an owner or operator of a lead recovery furnace that is subject to regulation pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the Agency identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste pursuant to this subsection (d)(3) or subsection (d)(1) of this Section. The owner or operator must comply with the requirements of subsection (d)(1) of this Section for those wastes claimed to be exempt pursuant to that subsection and must comply with the following requirements for those wastes claimed to be exempt pursuant to this subsection (d)(3):
- A) The hazardous wastes listed in Appendices K, L, and M of this Part and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subsection (d)(1) of this Section, provided the following are true:
- i) A waste listed in Appendix K of this Part must contain recoverable levels of lead, a waste listed in Appendix L of this Part must contain recoverable levels of nickel or chromium, a waste listed in Appendix M of this Part must contain recoverable levels of mercury and contain less than 500 ppm of Appendix H to 35 Ill. Adm. Code 721 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;
 - ii) The waste does not exhibit the toxicity characteristic of 35 Ill. Adm. Code 721.124 for an organic constituent;
 - iii) The waste is not a hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 because it is listed for an organic constituent, as identified in Appendix G of 35 Ill. Adm. Code 721; and
 - iv) The owner or operator certifies in the one-time notice that hazardous waste is burned pursuant to the provisions of subsection (d)(3) of this Section and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis must be conducted according to subsection (d)(1)(B) of this Section,

and records to document compliance with subsection (d)(3) of this Section must be kept for at least three years.

- B) The Agency may decide, on a case-by-case basis, that the toxic organic constituents in a material listed in Appendix K, Appendix L, or Appendix M of this Part that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Subpart H. Under these circumstances, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Subpart H when burning that material. In making the hazard determination, the Agency must consider the following factors:
- i) The concentration and toxicity of organic constituents in the material;
 - ii) The level of destruction of toxic organic constituents provided by the furnace; and
 - iii) Whether the acceptable ambient levels established in Appendix D or E of this Part will be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.
- e) The standards for direct transfer operations pursuant to Section 726.211 apply only to facilities subject to the permit standards of Section 726.202 or the interim status standards of Section 726.203.
- f) The management standards for residues pursuant to Section 726.212 apply to any BIF burning hazardous waste.
- g) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals are conditionally exempt from regulation pursuant to this Subpart H, except for Section 726.212. To be exempt from Sections 726.202 through 726.211, an owner or operator must do the following:
- 1) Provide a one-time written notice to the Agency indicating the following:
 - A) The owner or operator claims exemption pursuant to this Section,

- B) The hazardous waste is burned for legitimate recovery of precious metal, and
 - C) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Section;
- 2) Sample and analyze the hazardous waste, as necessary, to document that the waste is burned for recovery of economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and
 - 3) Maintain, at the facility for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.
- h) An owner or operator of a lead recovery furnace that processes hazardous waste for recovery of lead and which is subject to regulation pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, is conditionally exempt from regulation pursuant to this Subpart H, except for Section 726.201. To become exempt, an owner or operator must provide a one-time notice to the Agency identifying each hazardous waste burned and specifying that the owner or operator claims an exemption pursuant to this subsection (h). The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix H to 35 Ill. Adm. Code 721 of less than 500 ppm by weight, as fired and as provided in subsection (d)(2)(A) of this Section, or is listed in Appendix K to this Part.
- i) Abbreviations and definitions. The following definitions and abbreviations are used in this Subpart H:

“APCS” means air pollution control system.

“BIF” means boiler or industrial furnace.

“Carcinogenic metals” means arsenic, beryllium, cadmium, and chromium.

“CO” means carbon monoxide.

“Continuous monitor” is a monitor that continuously samples the regulated parameter without interruption, that evaluates the detector response at least once each 15 seconds, and that computes and records the average value at least every 60 seconds.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(I)(i) and (e)(6)(ii)(B)(I).

“DRE” means destruction or removal efficiency.

“cu m” or “m³” means cubic meters.

“E” means “ten to the power.” For example, “XE-Y” means “X times ten to the -Y power.”

“Feed rates” are measured as specified in Section 726.202(e)(6).

“Good engineering practice stack height” is as defined by federal 40 CFR 51.100(ii) (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

“HC” means hydrocarbon.

“HCl” means hydrogen chloride gas.

“Hourly rolling average” means the arithmetic mean of the 60 most recent one-minute average values recorded by the continuous monitoring system.
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(I)(ii).

“K” means Kelvin.

“kVA” means kilovolt amperes.

“MEI” means maximum exposed individual.

“MEI location” means the point with the maximum annual average off-site (unless on-site is required) ground level concentration.

“Noncarcinogenic metals” means antimony, barium, lead, mercury, thallium, and silver.

“One hour block average” means the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(2).

“PIC” means product of incomplete combustion.

“PM” means particulate matter.

“POHC” means principal organic hazardous constituent.

“ppmv” means parts per million by volume.

“QA/QC” means quality assurance and quality control.

“Rolling average for the selected averaging period” means the arithmetic mean of one hour block averages for the averaging period.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(2).

“RAC” means reference air concentration, the acceptable ambient level for the noncarcinogenic metals for purposes of this Subpart. RACs are specified in Appendix D of this Part.

“RSD” means risk-specific dose, the acceptable ambient level for the carcinogenic metals for purposes of this Subpart. RSDs are specified in Appendix E of this Part.

“SSU” means “Saybolt Seconds Universal,” a unit of viscosity measured by ASTM D 88-87 (Standard Test Method for Saybolt Viscosity) or D 2161-87 (Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

“TCLP test” means Method 1311 (Toxicity Characteristic Leaching Procedure) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as used for the purposes of 35 Ill. Adm. Code 721.124.

“TESH” means terrain-adjusted effective stack height (in meters).

“Tier I.” See Section 726.206(b).

“Tier II.” See Section 726.206(c).

“Tier III.” See Section 726.206(d).

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

“mg” means microgram.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 726.APPENDIX E Risk-Specific Doses

BOARD NOTE: These are risk specific doses (RSDs) based on a risk of 1 in 10,000 (1×10^{-5}).

Constituent	CAS No.	Unit risk ($m^3/\mu g$)	RSD ($\mu g/m^3$)
Acrylamide	79-06-1	0.0013	0.0077
Acrylonitrile	107-13-1	0.000068	0.15
Aldrin	309-00-2	0.0049	0.0020
Aniline	62-53-3	0.0000074	1.4
Arsenic	7440-38-2	0.0043	0.0023
Benz(a)anthracene	56-55-3	0.00089	0.011
Benzene	71-43-2	0.0000083	1.2
Benzidine	92-87-5	0.067	0.00015
Benzo(a)pyrene	50-32-8	0.0033	0.0030
Beryllium	7440-41-7	0.0024	0.0042
Bis(2-chloroethyl)ether	111-44-4	0.00033	0.030
Bis(chloromethyl)ether	542-88-1	0.062	0.00016
Bis(2-ethylhexyl)- phthalate	117-81-7	0.00000024	42.
1,3-Butadiene	106-99-0	0.00028	0.036
Cadmium	7440-43-9	0.0018	0.0056
Carbon Tetrachloride	56-23-5	0.000015	0.67
Chlordane	57-74-9	0.00037	0.027
Chloroform	67-66-3	0.000023	0.43
Chloromethane	74-87-3	0.0000036	2.8
Chromium VI	7440-47-3	0.012	0.00083
DDT	50-29-3	0.000097	0.10
Dibenz(a,h)anthracene	53-70-3	0.014	0.00071
1,2-Dibromo-3-chloro- propane	96-12-8	0.0063	0.0016
<u>1,2-Dibromo-3-chloro-</u> <u>propane</u>			
1,2-Dibromoethane	106-93-4	0.00022	0.045
1,1-Dichloroethane	75-34-3	0.000026	0.38
1,2-Dichloroethane	107-06-2	0.000026	0.38
1,1-Dichloroethylene	75-35-4	0.000050	0.20
1,3-Dichloropropene	542-75-6	0.35	0.000029
Dieldrin	60-57-1	0.0046	0.0022
Diethylstilbestrol	56-53-1	0.14	0.000071
Dimethylnitrosamine	62-75-9	0.014	0.00071
2,4-Dinitrotoluene	121-14-2	0.000088	0.11
1,2-Diphenylhydrazine	122-66-7	0.00022	0.045
1,4-Dioxane	123-91-1	0.0000014	7.1
Epichlorohydrin	106-89-8	0.0000012	8.3
Ethylene Oxide	75-21-8	0.00010	0.10

Ethylene Dibromide	106-93-4	0.00022	0.045
Formaldehyde	50-00-0	0.000013	0.77
Heptachlor	76-44-8	0.0013	0.0077
Heptachlor Epoxide	1024-57-3	0.0026	0.0038
Hexachlorobenzene	118-74-1	0.00049	0.020
Hexachlorobutadiene	87-68-3	0.000020	0.50
Alpha-hexachloro- cyclohexane	319-84-6	0.0018	0.0056
Beta-hexachlorocyclo- hexane	319-85-7	0.00053	0.019
Gamma-hexachloro- cyclohexane	58-89-9	0.00038	0.026
Hexachlorocyclo- hexane, Technical		0.00051	0.020
Hexachlorodibenzo-p- dioxin (1,2 Mixture)		1.3	0.0000077
Hexachloroethane	67-72-1	0.0000040	2.5
Hydrazine	302-01-2	0.0029	0.0034
Hydrazine Sulfate	302-01-2	0.0029	0.0034
3-Methylcholanthrene	56-49-5	0.0027	0.0037
Methyl Hydrazine	60-34-4	0.00031	0.032
Methylene Chloride	75-09-2	0.0000041	2.4
4,4'-Methylene-bis-2- chloroaniline	101-14-4	0.000047	0.21
Nickel	7440-02-0	0.00024	0.042
Nickel Refinery Dust	7440-02-0	0.00024	0.042
Nickel Subsulfide	12035-72-2	0.00048	0.021
2-Nitropropane	79-46-9	0.027	0.00037
N-Nitroso-n-butyl- amine	924-16-3	0.0016	0.0063
N-Nitroso-n-methyl- urea	684-93-5	0.086	0.00012
N-Nitrosodiethylamine	55-18-5	0.043	0.00023
N-Nitrosopyrrolidine	930-55-2	0.00061	0.016
Pentachloronitro- benzene	82-68-8	0.000073	0.14
PCBs	1336-36-3	0.0012	0.0083
Pronamide	23950-58-5	0.0000046	2.2
Reserpine	50-55-5	0.0030	0.0033
2,3,7,8-Tetrachloro- dibenzo-p-dioxin	1746-01-6	45.	0.00000022
1,1,2,2-Tetrachloro- ethane	79-34-5	0.000058	0.17
Tetrachloroethylene	127-18-4	0.00000048	21.
Thiourea	62-56-6	0.00055	0.018
1,1,2-Trichloroethane	79-00-5	0.000016	0.63

Trichloroethylene	79-01-6	0.0000013	7.7
2,4,6-Trichlorophenol	88-06-2	0.0000057	1.8
Toxaphene	8001-35-2	0.00032	0.031
Vinyl Chloride	75-01-4	0.0000071	1.4

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 727
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
FACILITIES OPERATING UNDER A RCRA STANDARDIZED PERMIT

Section

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727.Table B	Correlation of State RCRA Standardized Permit Provisions to Federal Provisions

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 R06-16/R06-17/R06-18 at 31 Ill. Reg. 1146, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12829, effective July 14, 2008; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

Section 727.110 General Facility Standards

- a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste under a Subpart J of 35 Ill. Adm. Code 703 RCRA standardized permit, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.10; ~~as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).~~

- b) Compliance with this Section. To comply with this Section, the facility owner or operator must obtain a USEPA identification number, and follow the requirements of this Part for waste analysis, security, inspections, training, special waste handling, and location standards.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.11; ~~as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).~~

- c) Obtaining a USEPA identification number. The facility owner or operator must apply to USEPA Region 5 for a USEPA identification number ~~following the USEPA notification procedures and using USEPA form Form 8700-12.~~ The owner or operator ~~may~~ must ~~obtain information and required forms a copy of the form from the Agency or from,~~ and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA Region 5.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.12; ~~as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).~~

- d) Waste analysis requirements.

1) Before it treats or stores any hazardous wastes, the facility owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information needed to treat or store the waste to comply with this Part and 35 Ill. Adm. Code 728.

A) The facility owner or operator may include data in the analysis that was developed pursuant to 35 Ill. Adm. Code 721 or data published or documented on the hazardous waste or on hazardous waste generated from similar processes.

B) The facility owner or operator must repeat the analysis as necessary to ensure that it is accurate and up to date. At a minimum, the owner or operator must repeat the analysis if the process or operation generating the hazardous wastes has changed.

- 2) The facility owner or operator must develop and follow a written waste analysis plan that describes the procedures it will follow to comply with subsection (d)(1) of this Section. The owner or operator must keep this plan at the facility. If the owner or operator receives wastes generated from off-site and is eligible for a RCRA standardized permit, the owner or operator also must have submitted the waste analysis plan with the Notice of Intent. At a minimum, the plan must specify all of the following:
 - A) The hazardous waste parameters that the owner or operator will analyze and the rationale for selecting these parameters (that is, how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (d)(1) of this Section).
 - B) The test methods the owner or operator will use to test for these parameters.
 - C) The sampling method the owner or operator will use to obtain a representative sample of the waste to be analyzed. The owner or operator may obtain a representative sample using either of the following methods:
 - i) One of the sampling methods described in Appendix A of 35 Ill. Adm. Code 721; or
 - ii) An equivalent sampling method.
 - D) How frequently the owner or operator will review or repeat the initial analysis of the waste to ensure that the analysis is accurate and up to date.
 - E) Where applicable, the methods the owner or operator will use to meet the additional waste analysis requirements for specific waste management methods, as specified in 35 Ill. Adm. Code 724.117, 724.934(d), 724.963(d), and 724.983.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.13, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- e) Security requirements.
 - 1) The facility owner or operator must prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of its facility.

- 2) The facility must have either of the features listed in subsection (e)(2)(A) of this Section or those listed in subsections (e)(2)(B) and (e)(2)(C) of this Section:
 - A) A 24-hour surveillance system (for example, television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; or
 - B) An artificial or natural barrier (for example, a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility; and
 - C) A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility).
- 3) The facility owner or operator must post a sign at each entrance to the active portion of a facility, and at other prominent locations, in sufficient numbers to be seen from any approach to this active portion. The sign must bear the legend “Danger—Unauthorized Personnel Keep Out.” The legend must be in English and in any other language predominant in the area surrounding the facility (for example, French or Spanish), and must be legible from a distance of at least 25 feet. The owner or operator may use existing signs with a legend other than “Danger—Unauthorized Personnel Keep Out” if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and entry onto the active portion can be dangerous.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.14, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- f) General inspection requirements.
 - 1) The owner or operator must inspect its facility for malfunctions and deterioration, operator errors, and discharges that may be causing, or may lead to either of the conditions listed in subsection (f)(1)(A) or (f)(1)(B) of this Section. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they result in harm to human health and the environment.
 - A) A release of hazardous waste constituents to the environment; or
 - B) A threat to human health.

- 2) The facility owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.
 - A) The owner or operator must keep this schedule at the facility.
 - B) The schedule must identify the equipment and devices that the owner or operator will inspect and what problems it will look for, such as malfunctions or deterioration of equipment (for example, inoperative sump pump, leaking fitting, etc.).
 - C) The frequency of the owner's or operator's inspections may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies required in Sections 727.270(e), 727.290(d) and (f), and 727.900(d) and 35 Ill. Adm. Code 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.989, where applicable.
- 3) The facility owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals in time to prevent any environmental or human health hazards. Where hazard is imminent or has already occurred, the owner or operator must take immediate remedial action.
- 4) The facility owner or operator must record all inspections. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, the owner or operator must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.15, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- g) Employee training.
 - 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of

this Part. The facility owner or operator must ensure that this program includes all the elements described in the documents that are required pursuant to subsection (g)(4)(C) of this Section.

- A) A person trained in hazardous waste management procedures must direct this program, and must teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions.
 - B) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable:
 - i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.
 - ii) Key parameters for automatic waste feed cut-off systems.
 - iii) Communications or alarm systems.
 - iv) Response to fires or explosions.
 - v) Response to groundwater contamination incidents.
 - vi) Shutdown of operations.
- 2) Facility personnel must successfully complete the program required in subsection (g)(1) of this Section within six months after the date of their employment or assignment to a facility or to a new position at a facility, whichever is later. Employees hired after the effective date of the owner's or operator's RCRA standardized permit must not work in unsupervised positions until they have completed the training requirements of subsection (g)(1) of this Section.
- 3) Facility personnel must take part in an annual review of the initial training required in subsection (g)(1) of this Section.
- 4) The facility owner or operator must maintain the following documents and records at its facility:
- A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

- B) A written job description for each position listed pursuant to subsection (g)(4)(A) of this Section. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;
 - C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed pursuant to subsection (g)(4)(A) of this Section;
 - D) Records that document that facility personnel have received and completed the training or job experience required pursuant to subsections (g)(1), (g)(2), and (g)(3) of this Section.
- 5) The facility owner or operator must keep training records on current personnel until its facility closes. The owner or operator must keep training records on former employees for at least three years from the date the employee last worked at its facility. Personnel training records may accompany personnel transferred within a company.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.16; as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- h) Requirements for managing ignitable, reactive, or incompatible wastes.
- 1) The facility owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste by following these requirements:
 - A) The owner or operator must separate these wastes and protect them from sources of ignition or reaction such as open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (for example, from heat-producing chemical reactions), and radiant heat.
 - B) While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flames to specially designated locations.
 - C) “No Smoking” signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.
 - 2) If it treats or stores ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, the owner or operator must take precautions to prevent reactions that do the following:

- A) Generate extreme heat or pressure, fire or explosions, or violent reactions.
 - B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.
 - C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.
 - D) Damage the structural integrity of the device or facility.
 - E) Threaten human health and the environment in any similar way.
- 3) The facility owner or operator must document compliance with subsection (h)(1) or (h)(2) of this Section. The owner or operator may base this documentation on references to published scientific or engineering literature, data from trial tests (for example bench scale or pilot scale tests), waste analyses (as specified in Section 727.110(d)), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.17; as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

i) Facility location standards.

- 1) The facility owner or operator may not locate any portion of a new facility where hazardous waste will be treated or stored within 61 meters (200 feet) of a fault that has had displacement in Holocene time.
 - A) “Fault” means a fracture along which rocks on one side have been displaced with respect to those on the other side.
 - B) “Displacement” means the relative movement of any two sides of a fault measured in any direction.
 - C) “Holocene” means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

BOARD NOTE: Under the note to corresponding 40 CFR 267.18(a)(3) and 40 CFR 270.14(b)(11), a facility that is located in a political jurisdiction other than those listed in appendix VI of 40 CFR 264, incorporated by reference in 35 Ill. Adm. Code 720.111(b), is assumed to be in compliance with this requirement. No area of Illinois is listed in appendix VI of 40 CFR 264.

- 2) If an owner's or operator's facility is located within a 100-year flood plain, it must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.
 - A) "100-year flood plain" means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.
 - B) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.
 - C) "100-year flood" means a flood that has a one percent chance of being equaled or exceeded in any given year.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.18, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 727.240 Financial Requirements

- a) Applicability and substance of the financial requirements.
 - 1) The regulations in this Section apply to owners and operators who treat or store hazardous waste under a RCRA standardized permit, except as provided in Section 727.100(a)(2) or subsection (a)(4) of this Section.
 - 2) The facility owner or operator must do each of the following:
 - A) It must prepare a closure cost estimate as required in subsection (c) of this Section;
 - B) It must demonstrate financial assurance for closure as required in subsection (d) of this Section; and
 - C) It must demonstrate financial assurance for liability as required in subsection (h) of this Section.
 - 3) The owner or operator must notify the Agency if the owner or operator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy) of the United States Code (see also subsection (i) of this Section).
 - 4) States and the federal government are exempt from the requirements of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.140; as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- b) Definitions of terms as used in this Section.
- 1) “Closure plan” means the plan for closure prepared in accordance with the requirements of Section 727.210(c).
 - 2) “Current closure cost estimate” means the most recent of the estimates prepared in accordance with subsections (c)(1), (c)(2), and (c)(3) of this Section.
 - 3) This subsection (b)(3) corresponds with 40 CFR 267.141(c), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
 - 4) “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator. In this instance, the owned corporation that is the facility owner or operator is deemed a “subsidiary” of the parent corporation.
 - 5) This subsection (b)(5) corresponds with 40 CFR 267.141(e), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
 - 6) The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:
 - “Assets” means all existing and all probable future economic benefits obtained or controlled by a particular entity.
 - “Current plugging and abandonment cost estimate” means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).
 - “Independently audited” refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.
 - “Liabilities” means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

“Tangible net worth” means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

- 7) In the liability insurance requirements, the terms “bodily injury” and “property damage” have the meanings given them by applicable State law. However, these terms do not include those liabilities that, consistent with standard industry practices, are excluded from coverage in liability insurance policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

“Accidental occurrence” means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

“Legal defense costs” means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

“Sudden accidental occurrence” means an occurrence that is not continuous or repeated in nature.

- 8) “Substantial business relationship” means the extent of a business relationship necessary under applicable ~~State-state~~ law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently existing business relationship exists between the guarantor and the facility owner or operator is demonstrated to the satisfaction of the Agency that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. “Applicable state law,” as used in this subsection (d)(8), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.141, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012). Subsection (b)(8) is also

derived from the discussion at 53 Fed. Reg. 33938, 41-43 (Sept. 1, 1988). The term “substantial business relationship” is also independently defined in 35 Ill. Adm. Code 724.241(h) and 725.241(h). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to section 40 of the Act [415 ILCS 5/40].

- c) Cost estimate for closure.
- 1) The facility owner or operator must have at the facility a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Section 727.210(b) through (f) and applicable closure requirements in Sections 727.270(g), 727.290(l), and 727.900(i).
 - A) The estimate must equal the cost of final closure at the point in the facility’s active life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan (see Section 727.210(c)(2)).
 - B) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See the definition of parent corporation in subsection (b)(4) of this Section.) The owner or operator may use costs for on-site disposal if it can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.
 - C) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.
 - D) The facility owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.
 - 2) During the active life of the facility, the facility owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with subsection (d) of this Section. For an owner or operator using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the guarantor’s fiscal year and before submission of updated information to the Agency as specified in subsection (n)(3) of this Section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most

recent Implicit Price Deflator for Gross Domestic Product (Deflator), published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (c)(2)(A) and (c)(2)(B) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

- A) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.
- B) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account Tables, published by U.S. Department of Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address: www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr.

- 3) During the active life of the facility, the facility owner or operator must revise the closure cost estimate no later than 30 days after the Agency has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (c)(2) of this Section.
- 4) The facility owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with subsections (c)(1) and (c)(3) of this Section and, when this estimate has been adjusted in accordance with subsection (c)(2) of this Section, the latest adjusted closure cost estimate.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.142, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- d) Financial assurance for closure. The facility owner or operator must establish financial assurance for closure of each storage or treatment unit that it owns or operates. In establishing financial assurance for closure, the owner or operator must choose from among the financial assurance mechanisms in subsections (d)(1) through (d)(7) of this Section. The owner or operator can also use a combination of mechanisms for a single facility if the combination meets the requirement in subsection (d)(8) of this Section, or it may use a single mechanism for multiple facilities as in subsection (d)(9) of this Section. The Agency must release the owner or operator from the requirements of this subsection (d) after

the owner or operator meets the criteria pursuant to subsection (d)(10) of this Section.

- 1) Closure trust fund. An owner or operator may use the “closure trust fund” that is specified in 35 Ill. Adm. Code 724.243(a)(1), (a)(2), and (a)(6) through (a)(11). For purposes of this subsection (d)(1), the following provisions also apply:
 - A) Payments into the trust fund for a new facility must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over three years, whichever period is shorter. This period of time is hereafter referred to as the “pay-in period.”
 - B) For a new facility, the facility owner or operator must make the first payment into the closure trust fund before the facility may accept the initial storage. A receipt from the trustee must be submitted by the owner or operator to the Agency before this initial storage of waste. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in subsection (d)(8) of this Section for multiple mechanisms. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The owner or operator determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is as follows:

$$NP = \frac{(CCE - CVTF)}{YRPP}$$

Where:

NP = the amount of the next payment
CCE = the current closure cost estimate
CVTF = the current value of the trust fund
YRPP = the years remaining in the pay-in period.

- C) The owner or operator of a facility existing on the effective date of this subsection (d)(1) can establish a trust fund to meet the financial assurance requirements of this subsection (d)(1). If the value of the trust fund is less than the current closure cost estimate when a final approval of the permit is granted for the facility, the owner or operator must pay the difference into the trust fund within 60 days.

- D) The facility owner or operator may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsections (d)(1)(B) or (d)(1)(C) of this Section.
- E) The facility owner or operator must submit a trust agreement with the wording specified in ~~40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251.
- 2) Surety bond guaranteeing payment into a closure trust fund. An owner or operator may use the “surety bond guaranteeing payment into a closure trust fund,” as specified in 35 Ill. Adm. Code 724.243(b), including the use of the surety bond instrument ~~specified at 40 CFR 264.151(b), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251, and the standby trust specified at 35 Ill. Adm. Code 724.243(b)(3).
- 3) Surety bond guaranteeing performance of closure. An owner or operator may use the “surety bond guaranteeing performance of closure,” as specified in 35 Ill. Adm. Code 724.243(c), the submission and use of the surety bond instrument ~~specified at 40 CFR 264.151(e), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251, and the standby trust specified at 35 Ill. Adm. Code 724.243(c)(3).
- 4) Closure letter of credit. An owner or operator may use the “closure letter of credit” specified in 35 Ill. Adm. Code 724.243(d), the submission and use of the irrevocable letter of credit instrument ~~specified in 40 CFR 264.151(d), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251, and the standby trust specified in 35 Ill. Adm. Code 724.243(d)(3).
- 5) Closure insurance. An owner or operator may use “closure insurance,” as specified in 35 Ill. Adm. Code 724.243(e), utilizing the certificate of insurance for closure ~~specified at 40 CFR 264.151(e), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251.
- 6) Corporate financial test. An owner or operator that satisfies the requirements of this subsection (d)(6) may demonstrate financial assurance up to the amount specified in this subsection (d)(6).

- A) Financial component. See subsection (m) of this Section.

BOARD NOTE: It was necessary for the Board to codify corresponding 40 CFR 267.143(f)(1) as subsection (m) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(A) also include added subsection (m) of this Section, as applicable.

- B) Recordkeeping and reporting requirements. See subsection (n) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2) as subsection (n) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(B) also include added subsection (n) of this Section, as applicable.

- ~~C) The terms of the guarantee must provide as set forth in subsection (o) of this Section.~~

~~BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(C) also include added subsection (o) of this Section, as applicable.~~

- 7) Corporate guarantee.

- A) A facility owner or operator may meet the requirements of this subsection (d) by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a “substantial business relationship” with the owner or operator. The guarantor must meet the requirements for owners or operators in subsection (d)(6) of this Section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording in 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b) designated by the Agency pursuant to 35 Ill. Adm. Code 724.251. The certified copy of the guarantee must accompany the letter from the guarantor’s chief financial officer and accountants’ opinions. If the guarantor’s parent corporation is also the parent corporation of the owner or operator, the letter from

the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

- B) For a new facility, the guarantee must be effective and the guarantor must submit the items in subsection (d)(7)(A) of this Section and the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before the owner or operator places waste in the facility.
- C) The terms of the guarantee must provide as required by subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(g)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(7), or (d)(7)(C) also include added subsection (o) of this Section, as applicable.

- D) If a corporate guarantor no longer meets the requirements of subsection (d)(6)(A) of this Section, the owner or operator must, within 90 days, obtain alternative assurance, and submit the assurance to the Agency for approval. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days, and submit it to the Agency for approval.
 - E) The guarantor is no longer required to meet the requirements of this subsection (d)(7) when either of the following occurs:
 - i) The facility owner or operator substitutes alternate financial assurance as specified in this subsection (d); or
 - ii) The facility owner or operator is released from the requirements of this subsection (d) in accordance with subsection (d)(10) of this Section.
- 8) Use of multiple financial mechanisms. An owner or operator may use more than one mechanism at a particular facility to satisfy the requirements of this subsection (d). The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or

operators cannot combine the financial test with the guarantee. The mechanisms must be as specified in subsections (d)(1), (d)(2), (d)(4), (d)(5), (d)(6), and (d)(7) of this Section, respectively, except it is the combination of mechanisms rather than a single mechanism that must provide assurance for an amount at least equal to the cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, it may use the trust fund as the standby trust for the other mechanisms. A single trust fund can be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

- 9) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial mechanism for multiple facilities, as specified in 35 Ill. Adm. Code 724.243(h).
- 10) Release of the owner or operator from the requirements of this subsection (d). Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency will notify the owner or operator in writing that the owner or operator is no longer required by this subsection (d) to maintain financial assurance for final closure of the facility, unless the Agency has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Agency must provide the owner or operator with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.143, as added at ~~70 Fed. Reg. 53420 (Sep. 8, 2005)~~ (2012).

- e) This subsection (e) corresponds with 40 CFR 267.144, which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- f) This subsection (f) corresponds with 40 CFR 267.145, which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- g) This subsection (g) corresponds with 40 CFR 267.146, which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.

h) Liability requirements.

- 1) Coverage for sudden accidental occurrences. The owner or operator of a hazardous waste treatment or storage facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsection (h)(1)(A) through (h)(1)(G) of this Section:
 - A) Trust fund for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a trust fund for liability coverage as specified in 35 Ill. Adm. Code 724.247(j).
 - B) Surety bond for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a surety bond for liability coverage as specified in 35 Ill. Adm. Code 724.247(i).
 - C) Letter of credit for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a letter of credit for liability coverage as specified in 35 Ill. Adm. Code 724.247(h).
 - D) Insurance for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining liability insurance as specified in 35 Ill. Adm. Code 724.247(a)(1).
 - E) Financial test for liability coverage. The owner or operator may meet the requirements of this subsection (h) by passing a financial test as specified in subsection (h)(6) of this Section.
 - F) Guarantee for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a guarantee as specified in subsection (h)(7) of this Section.
 - G) Combination of mechanisms. The owner or operator may demonstrate the required liability coverage through the use of combinations of mechanisms as allowed by 35 Ill. Adm. Code 724.247(a)(6).
 - H) An owner or operator shall notify the Agency in writing within 30 days whenever either of the following occurs:

- i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (h)(1)(A) through (h)(1)(G) of this Section; or
 - ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section; or
 - iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section.
- 2) This subsection (h)(2) corresponds with 40 CFR 267.147(b), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- 3) This subsection (h)(3) corresponds with 40 CFR 267.147(c), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- 4) This subsection (h)(4) corresponds with 40 CFR 267.147(d), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- 5) Period of coverage. Within 60 days after receiving certifications from the facility owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage from that facility, unless the Agency has reason to believe that closure has not been in accordance with the approved closure plan.
- 6) Financial test for liability coverage. A facility owner or operator that satisfies the requirements of this subsection (h)(6) may demonstrate financial assurance for liability up to the amount specified in this subsection (h)(6):

- A) Financial component.
- i) If using the financial test for only liability coverage, the owner or operator must have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus \$10 million.
 - ii) The owner or operator must have assets located in the United States amounting to at least the amount of liability covered by this financial test.
 - iii) An owner or operator who is demonstrating coverage for liability and any other environmental obligations, including closure pursuant to subsection (d)(6) of this Section, through a financial test must meet the requirements of subsection (d)(6) of this Section.
- B) Recordkeeping and reporting requirements. See subsection (p) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(f)(2) as subsection (p) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(6), or (h)(6)(B) also include added subsection (p) of this Section, as applicable.

- 7) Guarantee for liability coverage.
- A) Subject to subsection (h)(7)(B) of this Section, a facility owner or operator may meet the requirements of this subsection (h) by obtaining a written guarantee, hereinafter referred to as “guarantee.” The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a “substantial business relationship” with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (h)(6)(A) and (h)(6)(B) of this Section. The wording of the guarantee must be identical to the wording ~~specified in 40 CFR 264.151(h)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b) designated by the Agency pursuant to 35 Ill. Adm. Code 724.251.~~ A certified copy of the guarantee must accompany the items sent to the Agency, as specified in subsection (h)(6)(B) of this Section. One of these items must be the letter from the guarantor’s chief financial officer. If the guarantor’s

parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a “substantial business relationship” with the owner or operator, this letter must describe this “substantial business relationship” and the value received in consideration of the guarantee.

- i) If the facility owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden accidental occurrences arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.
- ii) This subsection (h)(7)(A)(ii) corresponds with 40 CFR 267.147(g)(1)(ii), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.

B) Foreign Corporations. See subsection (q) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(g)(2) as subsection (q) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(7), or (h)(7)(B) also include added subsection (q) of this Section, as applicable. See the further explanation of the differences between subsection (q) of this Section and 40 CFR 267.147(g)(2) in the Board note appended to subsection (q).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.147, ~~as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).~~

- i) Incapacity of owners or operators, guarantors, or financial institutions.
 - 1) The facility owner or operator must notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in subsections (d)(7) and (h)(7) of this Section must make such a notification if it is named as debtor, as required under the terms of the corporate guarantee ~~(see 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b))~~ designated by the Agency pursuant to 35 Ill. Adm. Code 724.251.

- 2) An owner or operator who fulfills the requirements of subsection (d) or (h) of this Section by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.148; as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- j) This subsection (j) corresponds with 40 CFR 267.149, which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- k) State assumption of responsibility.
 - 1) If the State either assumes legal responsibility for an owner’s or operator’s compliance with the closure care or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of subsection (d) or (h) of this Section if ~~the Agency~~ USEPA Region 5 determines that the State’s assumption of responsibility is at least equivalent to the financial mechanisms specified in this Section. ~~The Agency must~~ USEPA has stated that USEPA Region 5 will evaluate the equivalency of State guarantees principally in terms of the following: the certainty of the availability of funds for the required closure care activities or liability coverage; and the amount of funds that will be made available. The Agency USEPA has stated that USEPA Region 5 may also consider other factors as it deems appropriate. The facility owner or operator must submit to the Agency USEPA Region 5 a letter from the State describing the nature of the State’s assumption of responsibility together with a letter from the owner or operator requesting that the State’s assumption of responsibility be considered acceptable for meeting the requirements of this Section. The letter from the State must include, or have attached to it, the following information: the facility’s USEPA identification number, the facility name and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. ~~The Agency~~ USEPA has stated that USEPA Region 5 will notify the owner or operator of his determination regarding the acceptability of the State’s guarantee in lieu of financial mechanisms specified in this Section. The Agency USEPA has stated that USEPA Region 5 may require the owner or operator to submit additional information as is deemed necessary to make this determination.

Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of subsection (d) or (h) of this Section, as applicable.

- 2) If a State's assumption of responsibility is found acceptable as specified in subsection (k)(1) of this Section except for the amount of funds available, the owner or operator may satisfy the requirements of this Section by use of both the State's assurance and additional financial mechanisms as specified in this Section. The amount of funds available through the State and federal mechanisms must at least equal the amount required by this Section.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.150, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- 1) Wording of the instruments.

- 1) Forms for using the corporate financial test to demonstrate financial assurance for closure. The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in subsection (d)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration A of this Part provided by the Agency pursuant to subsection (1)(3) of this Section.

~~BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(a) as Appendix A, Illustration A of this Part. The Board intends that any citation to this subsection (1) or (1)(1) also include added Appendix A, Illustration A of this Part, as applicable.~~

- 2) Forms for using the financial test to demonstrate financial assurance for third-party liability. The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration B of this Part provided by the Agency pursuant to subsection (1)(3) of this Section.

~~BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(b) as Appendix A, Illustration B of this Part. The Board intends that any citation to this subsection (1) or (1)(2) also include added Appendix A, Illustration B of this Part, as applicable.~~

- 3) The Agency must promulgate standardized forms based on 40 CFR 267.151 (Wording of the Instruments), incorporated by reference in 35 Ill.

Adm. Code 720.111(b), with such changes in wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Section must do so only upon the standardized forms promulgated by the Agency. The Agency must reject any financial assurance document that is not submitted on such standardized forms.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.151, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012).

- m) Financial component for using the corporate financial test to demonstrate financial assurance for closure.
- 1) The facility owner or operator must satisfy one of the following three conditions:
 - A) A current rating for its senior unsecured debt of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A or Baa, as issued by Moody's; or
 - B) A ratio of less than 1.5 comparing total liabilities to net worth; or
 - C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
 - 2) The tangible net worth of the owner or operator must be greater than both of the following:
 - A) The sum of the current environmental obligations (see subsection (n)(1)(A)(i) of this Section), including guarantees, covered by a financial test plus \$10 million, except as provided in subsection (m)(2)(B) of this Section; and
 - B) \$10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations (see subsection (n)(1)(A)(i) of this Section) covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
 - 3) The facility owner or operator must have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in subsection (n)(1)(A)(i) of this Section.

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.143(f)(1), as added at ~~70 Fed. Reg. 53420 (Sep. 8, 2005)~~ (2012). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(A) of this Section also include this added subsection (m), as applicable.

n) Recordkeeping and reporting requirements for using the corporate financial test to demonstrate financial assurance for closure.

1) The facility owner or operator must submit the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer that provides the following information:

i) It lists all the applicable current types, amounts, and sums of environmental obligations covered by a financial test. These obligations include both obligations in the programs that USEPA directly operates and obligations where USEPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to the information described in subsection (n)(1)(E) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vii) as subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section or to this subsection (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) also include added subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section, as applicable.

ii) It provides evidence demonstrating that the firm meets the conditions of either subsection (m)(1)(A), (m)(1)(B), or (m)(1)(C) of this Section and subsections (m)(2) and (m)(3) of this Section.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or

other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance.

- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (m)(1)(B) or (m)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (n)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in subsection (m)(2)(B) of this Section, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.
- E) Contents of the letter signed by the chief financial officer (for the purposes of subsection (n)(1)(A)(i) of this Section):
 - i) The liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to the applicable provisions of 35 Ill. Adm. Code 724.201, 724.242, 724.244, 724.247, 725.242, 725.244, and 725.247;

- ii) The cost estimates required for municipal solid waste management facilities pursuant to the applicable provisions of Subpart G of 35 Ill. Adm. Code 811;
- iii) The current plugging cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 704.212;
- iv) The federally required cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280.93;
- v) The federally required cost estimates required for PCB storage facilities pursuant to 40 CFR 761.65;
- vi) Any federally required financial assurance required by or as part of an action undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601 et seq.); and
- vii) Any other environmental obligations that are assured through a financial test.

BOARD NOTE: Subsections (n)(1)(E) through (n)(1)(E)(vi) of this Section is derived from 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vi), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), (d)(6)(B), (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) of this Section also include added subsections (n)(1)(E) through (n)(1)(E)(vi), as applicable.

- 2) The owner or operator of a new facility must submit the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before placing waste in the facility.
- 3) After the initial submission of items specified in subsection (n)(1) of this Section, the owner or operator must send updated information to the Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (n)(1) of this Section.

- 4) The owner or operator is no longer required to submit the items specified in this subsection (n) of this Section or comply with the requirements of subsection (d)(6) of this Section when either of the following occurs:
 - A) The owner or operator substitutes alternate financial assurance as specified in subsection (d) of this Section that is not subject to these recordkeeping and reporting requirements; or
 - B) The Agency releases the owner or operator from the requirements of subsection (d) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator who no longer meets the requirements of subsection (m) of this Section cannot use the financial test to demonstrate financial assurance. Instead an owner or operator who no longer meets the requirements of subsection (m) of this Section, must do the following:
 - A) It must send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The owner or operator must send this notice by certified mail within 90 days following the close the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this subsection (n) and subsections (d), (m), and (o) of this Section; and
 - B) It must provide alternative financial assurance within 120 days after the end of such fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (m) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in subsection (n) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (m) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (d) of this Section.

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.143(f)(2), ~~as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012)~~. The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section also include this added subsection (n), as applicable.

- o) The terms of the guarantee for using the corporate guarantee to demonstrate financial assurance for closure must provide as follows:

- 1) If the facility owner or operator fails to perform closure at a facility covered by the guarantee, the guarantor will accomplish the following:
 - A) It will perform, or pay a third party to perform closure (performance guarantee); or
 - B) It will establish a fully funded trust fund as specified in subsection (d)(1) of this Section in the name of the owner or operator (payment guarantee).
- 2) The guarantee will remain in force for as long as the facility owner or operator must comply with the applicable financial assurance requirements of this Section unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency as evidenced by the return receipts.
- 3) If notice of cancellation is given, the facility owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the Agency, obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Agency. If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from the Agency within the 90-day period, the guarantor must provide that alternate assurance in the name of the owner or operator and submit the necessary documentation for the alternative assurance to the Agency within 120 days after the cancellation notice.

BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR ~~267.143(f)(3)~~, as added at ~~70 Fed. Reg. 53420 (Sep. 8, 2005)~~ 267.143(g)(3) (2012). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), ~~(d)(6)~~ (d)(7), or ~~(d)(6)(C)~~ (d)(7)(C) of this Section also include this added subsection (o), as applicable.

- p) Recordkeeping and reporting requirements.
 - 1) The owner or operator must submit the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer that provides evidence demonstrating that the firm meets the conditions of subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section. If the firm is providing only liability coverage through a financial test for a facility or facilities with a permit pursuant to

this Part 727, the letter should use the wording in subsection (l)(2) of this Section. If the firm is providing only liability coverage through a financial test for facilities regulated pursuant to this Part 727 and 35 Ill. Adm. Code 724 or 725, it should use the letter in ~~40 CFR 264.151(g), incorporated by reference in 35 Ill. Adm. Code 720.111(b)~~ Illustration B in Appendix A to this Part. If the firm is providing liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, and it assures closure costs or any other environmental obligations through a financial test, it must use the letter in subsection (l)(1) of this Section for the facilities issued a permit pursuant to this Part 727.

- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this subsection (h) within 30 days after the notification of disallowance.
- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section that are different from data in the audited financial statements referred to in subsection (p)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

- 2) The owner or operator of a new facility must submit the items specified in subsection (p)(1) of this Section to the Agency at least 60 days before placing waste in the facility.
- 3) After the initial submission of items specified in subsection (p)(1) of this Section, the facility owner or operator must send updated information to the Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (p)(1) of this Section.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (p) or comply with the requirements of subsection (h)(6) of this Section when either of the following occurs:
 - A) The facility owner or operator substitutes alternate financial assurance as specified in subsection (h) of this Section that is not subject to these recordkeeping and reporting requirements; or
 - B) The Agency releases the facility owner or operator from the requirements of subsection (h) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator that no longer meets the requirements of subsection (h)(6)(A) of this Section cannot use the financial test to demonstrate financial assurance. An owner or operator who no longer meets the requirements of subsection (h)(6)(A) of this Section, must do the following:
 - A) Send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The facility owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section.
 - B) Provide alternative financial assurance within 120 days after the end of such fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (h)(6)(A) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in this subsection (p) of this Section. If the Agency finds that the owner or operator no longer meets the requirements

of subsection (h)(6)(A) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (h) of this Section.

BOARD NOTE: Subsection (p) of this Section is derived from 40 CFR 267.147(f)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(6), or (h)(6)(B) of this Section also include this added subsection (p), as applicable.

q) Foreign corporations.

- 1) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:
 - A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
 - B) The guarantee is governed by Illinois law; and
 - C) The name and address of the guarantor's registered agent for service of process.
- 2) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

BOARD NOTE: Subsection (q) of this Section is derived from 40 CFR 267.147(g)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005) (2012). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(7), or (h)(7)(B) of this Section also include this added subsection (q), as applicable. The text of 40 CFR 267.147(g)(2) is substantially identical to that of 40 CFR 264.147(g)(2). The Board has substituted the language of 35 Ill. Adm. Code 724.247(g)(2), which corresponds with 40 CFR 264.147(g)(2), for that of 40 CFR 267.147(g)(2).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 728
LAND DISPOSAL RESTRICTIONS

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728.107	Testing, Tracking, and Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities
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Section

728.150	Prohibitions on Storage of Restricted Wastes
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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 R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective

June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 6049, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3800, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1254, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12840, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1186, effective December 30, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 18131, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8790, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

Section 728.144 ~~Adjustment of~~ USEPA Variance from a Treatment Standard

- a) Based on a petition filed by a generator or treater of hazardous waste, ~~the Board will grant an adjusted standard~~ USEPA has stated that it may approve a variance from an applicable treatment standard if the petitioner can demonstrate that either of the following applies to treatment of the waste:
 - 1) It is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard. To show that this is the case, the petitioner must demonstrate that because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method; or
 - 2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible. To show that this is the case, the petitioner must demonstrate that either of the following applies to treatment of the waste:

- A) Treatment to the specified level or by the specified method is technically inappropriate (for example, resulting in combustion of large amounts of mildly contaminated environmental media); or
- B) For remediation waste only, treatment to the specified level or by the specified method is environmentally inappropriate because it would likely discourage aggressive remediation.

BOARD NOTE: ~~Corresponding federal 40 CFR 268.44 refers to these as “treatability variances.” The Board has not used this term in its rules to avoid confusion with the Board variances under Title IX of the Environmental Protection Act. The equivalent Board procedures are an “adjusted standard from a treatment standard” pursuant to subsections (a) through (m) of this Section, or a “treatability exception” adopted pursuant to subsection (p) of this Section. While the latter is adopted by “identical in substance” rulemaking following a USEPA action, the former is an original Board action that will be the only mechanism following authorization to the State of this component of the RCRA program. A variance from a treatment standard is available only from USEPA. USEPA has reserved authority to grant variance form a treatment standard to itself.~~

- b) Each petition must be submitted in accordance with the procedures in ~~Subpart D of 35 III. Adm. Code 104~~ 40 C.F.R. 260.20.
- c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that 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.

- d) After receiving a petition for an adjusted treatment standard, ~~the Board~~ USEPA has stated that it may request any additional information or samples that are necessary to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and Regional Offices.
- e) ~~The Board~~ USEPA has stated that it will give public notice in the Federal Register of the intent to approve or deny a petition and provide an opportunity for public comment, as provided in Subpart D of 35 III. Adm. Code 104. In conjunction with any updating of the RCRA regulations, the Board will maintain, in this Part, a listing of all adjusted treatment standards granted by the Board pursuant to this

~~Section. A listing of all adjusted standards granted pursuant to this section will be published in the Illinois Register and Environmental Register at the end of each fiscal year. (Section 28.1(d)(3) of the Environmental Protection Act [415 ILCS 5/28.1(d)(3)]). USEPA has stated that the final decision on a variance from a treatment standard will be published in the Federal Register.~~

- f) A generator, treatment facility or disposal facility that is managing a waste covered by an adjusted treatment standard must comply with the waste analysis requirements for restricted wastes found under Section 728.107.
- g) During the petition review process, the applicant is required to comply with all restrictions on land disposal under this Part once the effective date for the waste has been reached.
- h) Based on a petition filed by a generator or treater of hazardous waste, ~~the Board will grant an adjusted standard~~ USEPA has stated that it may approve a site-specific variance from an applicable treatment standard if the petitioner can demonstrate that either of the following applies to treatment of the waste:
 - 1) It is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard. To show that this is the case, the petitioner must demonstrate that because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method; or
 - 2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible. To show that this is the case, the petitioner must demonstrate that either of the following applies to treatment of the waste:
 - A) Treatment to the specified level or by the specified method is technically inappropriate (for example, resulting in combustion of large amounts of mildly contaminated environmental media where the treatment standard is not based on combustion of such media); or
 - B) For remediation waste only, treatment to the specified level or by the specified method is environmentally inappropriate because it would likely discourage aggressive remediation.
 - 3) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below (i.e., lower than) the concentrations

necessary to minimize short- and long-term threats to human health and the environment. ~~An adjusted standard from a treatment standard~~ USEPA has stated that a treatment variance granted under this subsection (h)(3) 40 CFR 268.44(h)(3) will include the following features:

- A) ~~At a minimum, the adjusted standard from the treatment standard~~ USEPA has stated that a treatment variance approved under 40 CFR 268.44(h)(3) will impose an alternative land disposal restriction treatment standard that will achieve the following, using a reasonable maximum exposure scenario:
 - i) For carcinogens, it will achieve constituent concentrations that result in the total excess risk to an individual exposed over a lifetime, generally falling within a range from 10^{-4} to 10^{-6} ; and
 - ii) For constituents with non-carcinogenic effects, it will achieve constituent concentrations that an individual could be exposed to on a daily basis without appreciable risk of deleterious effect during a lifetime.
- B) ~~The treatment adjusted standard~~ USEPA has stated that a treatment variance approved under 40 CFR 268.44(h)(3) will not consider post-land-disposal controls.
- 4) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below (i.e., lower than) natural background concentrations at the site where the contaminated soil will be land disposed.
- 5) ~~The Board will follow the procedures of Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104 pertaining to public notice and a reasonable opportunity for public comment before granting or denying a petition.~~ USEPA has stated that public notice and a reasonable opportunity for public comment must be provided before granting or denying a petition.
 - i) Each petition for a site-specific ~~adjusted variance from a~~ treatment standard must include the information in 35 Ill. Adm. Code 720.120(b)(1) through (b)(4) 40 CFR 260.20(b)(1) through (b)(4).
 - j) ~~After receiving a petition for a site specific adjusted treatment standard an~~ application for site-specific variance from a treatment standard, the Board ~~USEPA~~ may request any additional information or samples that the Board ~~USEPA~~ determines are necessary to evaluate the petition.

- k) A generator, treatment facility, or disposal facility that is managing a waste covered by a site-specific ~~adjusted variance from a~~ treatment standard must comply with the waste analysis requirements for restricted wastes in Section 728.107.
- l) During the petition review process, the petitioner for a site-specific ~~adjusted treatment standard variance~~ must comply with all restrictions on land disposal under this Part once the effective date for the waste has been reached.
- m) For any ~~adjusted treatment standard variance~~ from a treatment standard, the petitioner must also demonstrate that compliance with the requested ~~adjusted treatment standard variance~~ is sufficient to minimize threats to human health and the environment posed by land disposal of the waste. In evaluating this demonstration, ~~the Board~~ USEPA has stated that it will take into account whether the ~~adjusted standard treatment variance~~ should be granted if the subject waste is to be used in a manner constituting disposal pursuant to ~~Sections 728.120 through 728.123~~ 40 CFR 266.20 through 266.23.
- n) This subsection (n) corresponds with 40 CFR 268.44(n), marked “reserved” by USEPA. This statement maintains structural consistency with corresponding federal regulations.
- o) The facilities listed in Table H of this Part are excluded from the treatment standards under Section 728.143(a) and Table B of this Part, and are subject to the constituent concentrations listed in Table H of this Part.
- p) ~~If~~ After USEPA grants a treatability exception by regulatory action pursuant to 40 CFR 268.44 and a person demonstrates that the treatability exception needs to be adopted as part of the Illinois RCRA program because the waste is generated or managed in Illinois, the Board will adopt the treatability exception by identical in substance rulemaking pursuant to Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)].

~~BOARD NOTE: The Board will adopt the treatability exception during a RCRA update Docket if a timely demonstration is made. Otherwise, the Board will assign the matter to a separate Docket.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

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739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications
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SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing
739.122 Used Oil Storage
739.123 On-Site Burning in Space Heaters
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SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND
AGGREGATION POINTS

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers
739.131 Used Oil Collection Centers
739.132 Used Oil Aggregate Points Owned by the Generator

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND
TRANSFER FACILITIES

Section
739.140 Applicability
739.141 Restrictions on Transporters that Are Not Also Processors
739.142 Notification
739.143 Used Oil Transportation
739.144 Rebuttable Presumption for Used Oil
739.145 Used Oil Storage at Transfer Facilities
739.146 Tracking
739.147 Management of Residues

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

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739.153	Rebuttable Presumption for Used Oil
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SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

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739.160	Applicability
739.161	Restriction on Burning
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SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

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739.170	Applicability
739.171	Prohibitions
739.172	On-Specification Used Oil Fuel
739.173	Notification
739.174	Tracking
739.175	Notices

SUBPART I: DISPOSAL OF USED OIL

Section	
739.180	Applicability
739.181	Disposal
739.182	Use As a Dust Suppressant

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 R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413,

effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010; amended in R13-15 at 37 Ill. Reg. _____, effective _____.

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section 739.142 Notification

- a) Identification numbers. A used oil transporter that has not previously complied with the notification requirements of RCRA Section 3010 must comply with these requirements and obtain a USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification.
 - 1) A used oil transporter that has not received a USEPA identification number may obtain one by notifying USEPA Region 5 and the Agency of its used oil activity by submitting either of the following:
 - A) A completed USEPA Form 8700-12 ~~(To obtain ordering information for USEPA Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810)~~ to USEPA Region 5 and the Agency; or

BOARD NOTE: The used oil transporter that wishes to use USEPA Form 8700-12 for notification must obtain a copy of the form from the Agency.
 - B) A letter to USEPA; Region 5 and the Agency, requesting a USEPA identification number. ~~(Call the RCRA/Superfund Hotline to determine where to send a letter requesting a USEPA identification number.)~~ The letter should include the following information:
 - i) The transporter company name;
 - ii) The owner of the transporter company;
 - iii) The mailing address for the transporter;
 - iv) The name and telephone number for the transporter point of contact;
 - v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);

- vi) The location of all transfer facilities at which used oil is stored;
 - vii) The name and telephone number for a contact at each transfer facility.
- 2) A used oil transporter that has not received an Illinois special waste identification number may obtain one pursuant to 35 Ill. Adm. Code 809 by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue, Springfield, Illinois 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.151 Notification

- a) Identification numbers. A used oil processor or re-refiner that has not previously complied with the notification requirements of RCRA Section 3010 must obtain a USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification.
 - 1) A used oil processor or re-refiner that has not received a USEPA identification number may obtain one by notifying USEPA Region 5 and the Agency of its used oil activity by submitting either of the following:
 - A) A completed USEPA Form 8700-12 ~~(To obtain ordering information for USEPA Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810)~~ to USEPA Region 5 and the Agency; or

BOARD NOTE: The used oil processor or re-refiner that wishes to use USEPA Form 8700-12 for notification must obtain a copy of USEPA Form 8700-12 from the Agency.
 - B) A letter to USEPA Region 5 and the Agency requesting a USEPA identification number. ~~(Call the RCRA/Superfund Hotline to determine where to send a letter requesting a USEPA identification number.)~~ The letter should include the following information:
 - i) The processor or re-refiner company name;

- ii) The owner of the processor or re-refiner company;
 - iii) The mailing address for the processor or re-refiner;
 - iv) The name and telephone number for the processor or re-refiner point of contact;
 - v) The type of transport activity (i.e., transport only, transport and transfer facility, or transfer facility only);
 - vi) The location of all transfer facilities at which used oil is stored;
 - vii) The name and telephone number for a contact at each transfer facility.
- 2) A used oil processor or re-refiner that has not received an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue, Springfield, Illinois 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 739.152 General Facility Standards

- a) Preparedness and prevention. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
 - 1) Maintenance and operation of a facility. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.
 - 2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) of this Section:
 - A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
 - B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning

emergency assistance from local police departments, fire departments, or State or local emergency response teams;

- C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
 - D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.
- 3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- 4) Access to communications or alarm system.
- A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2) of this Section.
 - B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2) of this Section.
- 5) Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
- 6) Arrangements with local authorities.
- A) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

- i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
 - ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
 - iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
 - iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
 - B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.
- b) Contingency plan and emergency procedures. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
 - 1) Purpose and implementation of contingency plan.
 - A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.
 - B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
 - 2) Content of contingency plan.
 - A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) of this Section in response to fires, explosions, or any unplanned sudden or

non-sudden release of used oil to air, soil, or surface water at the facility.

- B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112-~~or 40 CFR 300~~, or some other emergency or contingency plan exists for the facility under federal, state, or local regulation (e.g., federal 40 CFR 300 or 40 C.F.R. 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.
 - C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) of this Section.
 - D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) of this Section), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.
 - E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
 - F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).
- 3) Copies of contingency plan. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:
- A) Maintained at the facility; and
 - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

- 4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:
- A) Applicable regulations are revised;
 - B) The plan fails in an emergency;
 - C) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
 - D) The list of emergency coordinators changes; or
 - E) The list of emergency equipment changes.
- 5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA cited the following as guidance: “The emergency coordinator’s responsibilities are more fully spelled out in [subsection (b)(6) of this Section]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.”

- 6) Emergency procedures.
- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:
 - i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

- B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.
- C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).
- D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:
- i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and
 - ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.
- E) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:
 - i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and
 - ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
 - iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) of this Section before operations are resumed in the affected areas of the facility.
- I) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:
 - i) The name, address, and telephone number of the owner or operator;
 - ii) The name, address, and telephone number of the facility;
 - iii) The date, time, and type of incident (e.g., fire, explosion);
 - iv) The name and quantity of materials involved;
 - v) The extent of injuries, if any;
 - vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

- vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section 739.162 Notification

- a) Identification numbers. A used oil burner that has not previously complied with the notification requirements of RCRA Section 3010 must comply with these requirements and obtain a USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) Mechanics of notification. A used oil burner that has not received a USEPA identification number may obtain one by notifying USEPA Region 5 and the Agency of its used oil activity by submitting either of the following:
 - 1) A completed USEPA Form 8700-12 ~~(to obtain USEPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810)~~ to USEPA Region 5 and the Agency; or

BOARD NOTE: The used oil burner that wishes to use USEPA Form 8700-12 for notification must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit the completed form to USEPA Region 5.

- 2) A letter to USEPA Region 5 and the Agency requesting a USEPA identification number. ~~Call the RCRA/Superfund Hotline to determine where to send a letter requesting a USEPA identification number.~~ The letter should include the following information:
 - A) The burner company name;
 - B) The owner of the burner company;
 - C) The mailing address for the burner;
 - D) The name and telephone number for the burner point of contact;
 - E) The type of used oil activity; and
 - F) The location of the burner facility.

- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue, Springfield, Illinois 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.173 Notification

- a) A used oil fuel marketer subject to the requirements of this Section that has not previously complied with the notification requirements of RCRA Section 3010 must comply with these requirements and obtain a USEPA identification number pursuant to RCRA Section 3010 and an Illinois special waste identification number.
- b) A used oil marketer that has not received a USEPA identification number may obtain one by notifying the USEPA Region 5 and the Agency of its used oil activity by submitting either of the following:

- 1) A completed USEPA Form 8700-12 to USEPA Region 5 and the Agency; or

BOARD NOTE: The used oil fuel marketer that wishes to use USEPA Form 8700-12 for notification must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit the completed form to USEPA Region 5.

- 2) A letter to USEPA, Region 5 and the Agency requesting a USEPA identification number. The letter should include the following information:

- A) The marketer company name;
- B) The owner of the marketer;
- C) The mailing address for the marketer;
- D) The name and telephone number for the marketer point of contact; and
- E) The type of used oil activity (i.e., generator directing shipments of off-specification used oil to a burner).

- c) A used oil burner that has not previously obtained an Illinois special waste identification number may obtain one by contacting the Agency at the following address: Division of Land Pollution Control, Illinois EPA, 1021 North Grand Avenue, Springfield, Illinois 62794-9276 (telephone: 217-782-6761).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART I: DISPOSAL OF USED OIL

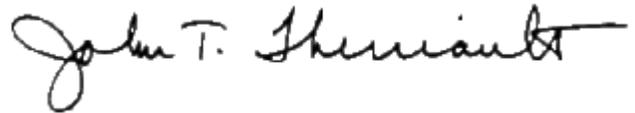
Section 739.181 Disposal

- a) Disposal of hazardous used oils. A used oil that is identified as a hazardous waste and which cannot be recycled in accordance with this Part must be managed in accordance with the hazardous waste management requirements of 35 Ill. Adm. Code 702, 703, and 720 through 728.
- b) Disposal of non-hazardous used oils. A used oil that is not a hazardous waste and cannot be recycled under this Part must be disposed of in accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40 CFR 257 and 258, incorporated by reference in 35 Ill. Adm. Code 720.111(b).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion on June 20, 2013, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board