

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

2) Code Citation: 35 Ill. Adm. Code 725

3) Section Numbers:                      Proposed Actions:

725.101	Amendment
725.104	Amendment
725.112	Amendment
725.113	Amendment
725.114	Amendment
725.116	Amendment
725.119	Amendment
725.171	Amendment
725.172	Amendment
725.173	Amendment
725.175	Amendment
725.176	Amendment
725.177	Amendment
725.190	Amendment
725.192	Amendment
725.193	Amendment
725.210	Amendment
725.212	Amendment
725.213	Amendment
725.217	Amendment
725.218	Amendment
725.219	Amendment
725.221	Amendment
725.240	Amendment
725.241	Amendment
725.242	Amendment
725.243	Amendment
725.244	Amendment
725.245	Amendment
725.247	Amendment
725.274	Amendment
725.290	Amendment
725.291	Amendment
725.292	Amendment

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JUN 29 2018

STATE OF ILLINOIS  
Pollution Control Board

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

725.293	Amendment
725.295	Amendment
725.296	Amendment
725.297	Amendment
725.298	Amendment
725.301	Repealed
725.302	Amendment
725.321	Amendment
725.322	Amendment
725.324	Amendment
725.325	Amendment
725.326	Amendment
725.328	Amendment
725.350	Amendment
725.353	Amendment
725.354	Amendment
725.355	Amendment
725.358	Amendment
725.359	Amendment
725.376	Amendment
725.378	Amendment
725.380	Amendment
725.401	Amendment
725.402	Amendment
725.403	Amendment
725.404	Amendment
725.410	Amendment
725.412	Amendment
725.414	Amendment
725.416	Amendment
725.440	Amendment
725.470	Amendment
725.500	Amendment
725.530	Amendment
725.540	Amendment
725.541	Amendment
725.543	Amendment
725.930	Amendment
725.931	Amendment
725.932	Amendment

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

725.933	Amendment
725.934	Amendment
725.935	Amendment
725.950	Amendment
725.951	Amendment
725.953	Amendment
725.954	Amendment
725.955	Amendment
725.956	Amendment
725.957	Amendment
725.958	Amendment
725.960	Amendment
725.961	Amendment
725.962	Amendment
725.963	Amendment
725.964	Amendment
725.980	Amendment
725.981	Amendment
725.982	Amendment
725.983	Amendment
725.984	Amendment
725.986	Amendment
725.988	Amendment
725.989	Amendment
725.990	Amendment
724.1101	Amendment
725.1102	Amendment
725.1200	Amendment
725.1201	Amendment
725.1202	Amendment
725.Appendix F	Amendment

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

5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 725 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702 through 705, 720 through 724, 726 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the Illinois Register. Included in this issue are 35 Ill. Adm. Code 724 and 725. To save space, a

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 724. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 725 incorporate elements of the Generator Improvements Rule and the Hazardous Waste Import-Export Revisions. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

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

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph, 11-500  
Chicago IL 60601

312/814-6924  
e-mail: michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

# 1<sup>ST</sup> NOTICE VERSION

JCAR350725-1812003r01

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

6 PART 725  
7 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS  
8 WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES  
9

10 SUBPART A: GENERAL PROVISIONS  
11

12 Section  
13 725.101 Purpose, Scope, and Applicability  
14 725.102 Electronic Reporting  
15 725.104 Imminent Hazard Action  
16

17 SUBPART B: GENERAL FACILITY STANDARDS  
18

19 Section  
20 725.110 Applicability  
21 725.111 USEPA Identification Number  
22 725.112 Required Notices  
23 725.113 General Waste Analysis  
24 725.114 Security  
25 725.115 General Inspection Requirements  
26 725.116 Personnel Training  
27 725.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes  
28 725.118 Location Standards  
29 725.119 Construction Quality Assurance Program  
30

31 SUBPART C: PREPAREDNESS AND PREVENTION  
32

33 Section  
34 725.130 Applicability  
35 725.131 Maintenance and Operation of Facility  
36 725.132 Required Equipment  
37 725.133 Testing and Maintenance of Equipment  
38 725.134 Access to Communications or Alarm System  
39 725.135 Required Aisle Space  
40 725.137 Arrangements with Local Authorities  
41

42 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES  
43

44 Section  
45 725.150 Applicability  
46 725.151 Purpose and Implementation of Contingency Plan  
47 725.152 Content of Contingency Plan  
48 725.153 Copies of Contingency Plan  
49 725.154 Amendment of Contingency Plan  
50 725.155 Emergency Coordinator  
51 725.156 Emergency Procedures

52  
53 SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING  
54

55 Section  
56 725.170 Applicability  
57 725.171 Use of Manifest System  
58 725.172 Manifest Discrepancies  
59 725.173 Operating Record  
60 725.174 Availability, Retention, and Disposition of Records  
61 725.175 Annual Report  
62 725.176 Unmanifested Waste Report  
63 725.177 Additional Reports

64  
65 SUBPART F: GROUNDWATER MONITORING  
66

67 Section  
68 725.190 Applicability  
69 725.191 Groundwater Monitoring System  
70 725.192 Sampling and Analysis  
71 725.193 Preparation, Evaluation, and Response  
72 725.194 Recordkeeping and Reporting

73  
74 SUBPART G: CLOSURE AND POST-CLOSURE CARE  
75

76 Section  
77 725.210 Applicability  
78 725.211 Closure Performance Standard  
79 725.212 Closure Plan; Amendment of Plan  
80 725.213 Closure; Time Allowed for Closure  
81 725.214 Disposal or Decontamination of Equipment, Structures, and Soils  
82 725.215 Certification of Closure  
83 725.216 Survey Plat  
84 725.217 Post-Closure Care and Use of Property  
85 725.218 Post-Closure Care Plan; Amendment of Plan  
86 725.219 Post-Closure Notices

87 725.220 Certification of Completion of Post-Closure Care  
88 725.221 Alternative Post-Closure Care Requirements

89

90 SUBPART H: FINANCIAL REQUIREMENTS

91

92 Section

93 725.240 Applicability

94 725.241 Definitions of Terms as Used in this Subpart H

95 725.242 Cost Estimate for Closure

96 725.243 Financial Assurance for Closure

97 725.244 Cost Estimate for Post-Closure Care

98 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance

99 725.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure  
100 Care

101 725.247 Liability Requirements

102 725.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions

103 725.251 Promulgation of Forms (Repealed)

104

105 SUBPART I: USE AND MANAGEMENT OF CONTAINERS

106

107 Section

108 725.270 Applicability

109 725.271 Condition of Containers

110 725.272 Compatibility of Waste with Containers

111 725.273 Management of Containers

112 725.274 Inspections

113 725.276 Special Requirements for Ignitable or Reactive Wastes

114 725.277 Special Requirements for Incompatible Wastes

115 725.278 Air Emission Standards

116

117 SUBPART J: TANK SYSTEMS

118

119 Section

120 725.290 Applicability

121 725.291 Assessment of Existing Tank System Integrity

122 725.292 Design and Installation of New Tank Systems or Components

123 725.293 Containment and Detection of Releases

124 725.294 General Operating Requirements

125 725.295 Inspections

126 725.296 Response to Leaks or Spills and Disposition of Tank Systems

127 725.297 Closure and Post-Closure Care

128 725.298 Special Requirements for Ignitable or Reactive Wastes

129 725.299 Special Requirements for Incompatible Wastes

- 130 725.300 Waste Analysis and Trial Tests
- 131 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month (Repealed)
- 132 725.302 Air Emission Standards

133

134 SUBPART K: SURFACE IMPOUNDMENTS

135

136 Section

- 137 725.320 Applicability
- 138 725.321 Design and Operating Requirements
- 139 725.322 Action Leakage Rate
- 140 725.323 Containment System
- 141 725.324 Response Actions
- 142 725.325 Waste Analysis and Trial Tests
- 143 725.326 Monitoring and Inspections
- 144 725.328 Closure and Post-Closure Care
- 145 725.329 Special Requirements for Ignitable or Reactive Wastes
- 146 725.330 Special Requirements for Incompatible Wastes
- 147 725.331 Air Emission Standards

148

149 SUBPART L: WASTE PILES

150

151 Section

- 152 725.350 Applicability
- 153 725.351 Protection from Wind
- 154 725.352 Waste Analysis
- 155 725.353 Containment
- 156 725.354 Design and Operating Requirements
- 157 725.355 Action Leakage Rates
- 158 725.356 Special Requirements for Ignitable or Reactive Wastes
- 159 725.357 Special Requirements for Incompatible Wastes
- 160 725.358 Closure and Post-Closure Care
- 161 725.359 Response Actions
- 162 725.360 Monitoring and Inspections

163

164 SUBPART M: LAND TREATMENT

165

166 Section

- 167 725.370 Applicability
- 168 725.372 General Operating Requirements
- 169 725.373 Waste Analysis
- 170 725.376 Food Chain Crops
- 171 725.378 Unsaturated Zone (Zone of Aeration) Monitoring
- 172 725.379 Recordkeeping

- 173 725.380 Closure and Post-Closure Care
- 174 725.381 Special Requirements for Ignitable or Reactive Wastes
- 175 725.382 Special Requirements for Incompatible Wastes

177 SUBPART N: LANDFILLS

178

179 Section

- 180 725.400 Applicability
- 181 725.401 Design Requirements
- 182 725.402 Action Leakage Rate
- 183 725.403 Response Actions
- 184 725.404 Monitoring and Inspections
- 185 725.409 Surveying and Recordkeeping
- 186 725.410 Closure and Post-Closure Care
- 187 725.412 Special Requirements for Ignitable or Reactive Wastes
- 188 725.413 Special Requirements for Incompatible Wastes
- 189 725.414 Special Requirements for Liquid Wastes
- 190 725.415 Special Requirements for Containers
- 191 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

192

193

194 SUBPART O: INCINERATORS

195

196 Section

- 197 725.440 Applicability
- 198 725.441 Waste Analysis
- 199 725.445 General Operating Requirements
- 200 725.447 Monitoring and Inspections
- 201 725.451 Closure
- 202 725.452 Interim Status Incinerators Burning Particular Hazardous Wastes

203

204 SUBPART P: THERMAL TREATMENT

205

206 Section

- 207 725.470 Other Thermal Treatment
- 208 725.473 General Operating Requirements
- 209 725.475 Waste Analysis
- 210 725.477 Monitoring and Inspections
- 211 725.481 Closure
- 212 725.482 Open Burning; Waste Explosives
- 213 725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Wastes

214

215 SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

216		
217	Section	
218	725.500	Applicability
219	725.501	General Operating Requirements
220	725.502	Waste Analysis and Trial Tests
221	725.503	Inspections
222	725.504	Closure
223	725.505	Special Requirements for Ignitable or Reactive Wastes
224	725.506	Special Requirements for Incompatible Wastes
225		
226		SUBPART R: UNDERGROUND INJECTION
227		
228	Section	
229	725.530	Applicability
230		
231		SUBPART W: DRIP PADS
232		
233	Section	
234	725.540	Applicability
235	725.541	Assessment of Existing Drip Pad Integrity
236	725.542	Design and Installation of New Drip Pads
237	725.543	Design and Operating Requirements
238	725.544	Inspections
239	725.545	Closure
240		
241		SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS
242		
243	Section	
244	725.930	Applicability
245	725.931	Definitions
246	725.932	Standards: Process Vents
247	725.933	Standards: Closed-Vent Systems and Control Devices
248	725.934	Test Methods and Procedures
249	725.935	Recordkeeping Requirements
250		
251		SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS
252		
253	Section	
254	725.950	Applicability
255	725.951	Definitions
256	725.952	Standards: Pumps in Light Liquid Service
257	725.953	Standards: Compressors
258	725.954	Standards: Pressure Relief Devices in Gas/Vapor Service

259	725.955	Standards: Sampling Connecting Systems
260	725.956	Standards: Open-Ended Valves or Lines
261	725.957	Standards: Valves in Gas/Vapor or Light Liquid Service
262	725.958	Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other
263		Connectors
264	725.959	Standards: Delay of Repair
265	725.960	Standards: Closed-Vent Systems and Control Devices
266	725.961	Percent Leakage Alternative for Valves
267	725.962	Skip Period Alternative for Valves
268	725.963	Test Methods and Procedures
269	725.964	Recordkeeping Requirements

270

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

273	Section	
274	725.980	Applicability
275	725.981	Definitions
276	725.982	Schedule for Implementation of Air Emission Standards
277	725.983	Standards: General
278	725.984	Waste Determination Procedures
279	725.985	Standards: Tanks
280	725.986	Standards: Surface Impoundments
281	725.987	Standards: Containers
282	725.988	Standards: Closed-Vent Systems and Control Devices
283	725.989	Inspection and Monitoring Requirements
284	725.990	Recordkeeping Requirements
285	725.991	Alternative Tank Emission Control Requirements (Repealed)

286

287                                   SUBPART DD: CONTAINMENT BUILDINGS

288		
289	Section	
290	725.1100	Applicability
291	725.1101	Design and Operating Standards
292	725.1102	Closure and Post-Closure Care

293

294                   SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

295		
296	Section	
297	725.1200	Applicability
298	725.1201	Design and Operating Standards
299	725.1202	Closure and Post-Closure Care
300		
301	725.APPENDIX A	Recordkeeping Instructions

302	725.APPENDIX B	EPA Report Form and Instructions (Repealed)
303	725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
304	725.APPENDIX D	Tests for Significance
305	725.APPENDIX E	Examples of Potentially Incompatible Wastes
306	725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

307  
 308 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the  
 309 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].  
 310

311 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
 312 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.  
 313 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12,  
 314 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10  
 315 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective  
 316 August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in  
 317 R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338,  
 318 effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,  
 319 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at  
 320 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective  
 321 November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990;  
 322 amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at  
 323 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective  
 324 October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in  
 325 R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg.  
 326 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22,  
 327 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18  
 328 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective  
 329 November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in  
 330 R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22  
 331 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective  
 332 April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28,  
 333 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999;  
 334 amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill.  
 335 Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20,  
 336 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at  
 337 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective  
 338 April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23,  
 339 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006;  
 340 amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33  
 341 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890,  
 342 effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October  
 343 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in  
 344 R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830,

345 effective August 9, 2016; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective  
 346 \_\_\_\_\_.

348 SUBPART A: GENERAL PROVISIONS

349 **Section 725.101 Purpose, Scope, and Applicability**

- 350
- 351
- 352 a) The purpose of this Part is to establish minimum standards that define the  
 353 acceptable management of hazardous waste during the period of interim status  
 354 and until certification of final closure or, if the facility is subject to post-closure  
 355 care requirements, until post-closure care responsibilities are fulfilled.  
 356
- 357 b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill.  
 358 Adm. Code 724.652 through 724.654 apply to owners and operators of facilities  
 359 that treat, store, or dispose of hazardous waste and which have fully complied  
 360 with the requirements for interim status pursuant to Section 3005(e) of the  
 361 Resource Conservation and Recovery Act (RCRA) (42 USC 6925(e)) and 35 Ill.  
 362 Adm. Code 703, until either a permit is issued pursuant to Section 3005 of the  
 363 Resource Conservation and Recovery Act (42 USC 6905) or Section 21(f) of the  
 364 Environmental Protection Act [415 ILCS 5/21(f)], or until applicable closure and  
 365 post-closure care responsibilities pursuant to this Part are fulfilled, and to those  
 366 owners and operators of facilities in existence on November 19, 1980, that have  
 367 failed to provide timely notification as required by ~~section~~Section 3010(a) of  
 368 RCRA (42 USC ~~6930(a)~~6910(a)) or that have failed to file Part A of the Permit  
 369 Application, as required by federal 40 CFR 270.10(e) and (g) or 35 Ill. Adm.  
 370 Code 703.150 and 703.152. These standards apply to all treatment, storage, or  
 371 disposal of hazardous waste at these facilities ~~after November 19, 1980~~, except as  
 372 specifically provided otherwise in this Part or in 35 Ill. Adm. Code 721.  
 373

374 BOARD NOTE: As stated in Section 3005(a) of RCRA (42 USC 6905(a)), after  
 375 the effective date of regulations pursuant to that Section (i.e., 40 CFR 270 and  
 376 124) the treatment, storage, or disposal of hazardous waste is prohibited except in  
 377 accordance with a permit. Section 3005(e) of RCRA (42 USC 6905(e)) provides  
 378 for the continued operation of an existing facility that meets certain conditions  
 379 until final administrative disposition of the owner's and operator's permit  
 380 application is made.

- 381
- 382 c) The requirements of this Part do not apply to any of the following:
- 383
- 384 1) A person disposing of hazardous waste by means of ocean disposal subject  
 385 to a permit issued pursuant to the federal Marine Protection, Research and  
 386 Sanctuaries Act (33 USC 1401 et seq.);  
 387

388 BOARD NOTE: This Part applies to the treatment or storage of  
 389 hazardous waste before it is loaded into an ocean vessel for incineration or  
 390 disposal at sea, as provided in subsection (b) ~~of this Section~~.

391  
 392 2) This subsection (c)(2) corresponds with 40 CFR 265.1(c)(2), marked  
 393 "reserved" by USEPA. This statement maintains structural consistency  
 394 with USEPA rules;

395  
 396 3) The owner or operator of a POTW (publicly owned treatment works) that  
 397 treats, stores, or disposes of hazardous waste;

398  
 399 BOARD NOTE: The owner or operator of a facility pursuant to  
 400 subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm.  
 401 Code 724 to the extent they are included in a permit by rule granted to  
 402 such a person pursuant to 35 Ill. Adm. Code 702 and 703 or are required  
 403 by Subpart F of 35 Ill. Adm. Code 704.

404  
 405 4) This subsection (c)(4) corresponds with 40 CFR 265.1(c)(4), which  
 406 pertains exclusively to the applicability of the federal regulations in  
 407 authorized states. There is no need for a parallel provision in the Illinois  
 408 regulations. This statement maintains structural consistency with USEPA  
 409 rules;

410  
 411 5) The owner or operator of a facility permitted, licensed, or registered by  
 412 Illinois to manage municipal or industrial solid waste, if the only  
 413 hazardous waste the facility treats, stores, or disposes of is excluded from  
 414 regulation pursuant to this Part by 35 Ill. Adm. Code ~~722.114721-105~~;

415  
 416 6) The owner or operator of a facility managing recyclable materials  
 417 described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the  
 418 extent that requirements of this Part are referred to in Subpart C, F, G, or  
 419 H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739;

420  
 421 7) A generator accumulating waste on-site in compliance with applicable  
 422 conditions for exemption in 35 Ill. Adm. Code 722.114 through 722.117  
 423 and Subparts K and L of 35 Ill. Adm. Code ~~722.134~~ ~~35 Ill. Adm. Code~~  
 424 ~~722.134~~, except to the extent the requirements of this Part are included in  
 425 those Sections and Subparts ~~35 Ill. Adm. Code 722.134~~;

426  
 427 8) A farmer disposing of waste pesticides from the farmer's own use in  
 428 compliance with 35 Ill. Adm. Code 722.170;

429  
 430 9) The owner or operator of a totally enclosed treatment facility, as defined

- 431 in 35 Ill. Adm. Code 720.110;  
432  
433 10) The owner or operator of an elementary neutralization unit or a  
434 wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110,  
435 provided that if the owner or operator is diluting hazardous ignitable  
436 (D001) wastes (other than the D001 High TOC Subcategory defined in  
437 Table T of 35 Ill. Adm. Code 728) or reactive (D003) waste in order to  
438 remove the characteristic before land disposal, the owner or operator must  
439 comply with the requirements set forth in Section 725.117(b);  
440  
441 11) Immediate response.  
442  
443 A) Except as provided in subsection (c)(11)(B) of this Section, a  
444 person engaged in treatment or containment activities during  
445 immediate response to any of the following situations:  
446  
447 i) A discharge of a hazardous waste;  
448  
449 ii) An imminent and substantial threat of a discharge of a  
450 hazardous waste;  
451  
452 iii) A discharge of a material that becomes a hazardous waste  
453 when discharged; or  
454  
455 iv) An immediate threat to human health, public safety,  
456 property, or the environment from the known or suspected  
457 presence of military munitions, other explosive material, or  
458 an explosive device, as determined by an explosives or  
459 munitions emergency response specialist as defined in 35  
460 Ill. Adm. Code 720.110.  
461  
462 B) An owner or operator of a facility otherwise regulated by this Part  
463 must comply with all applicable requirements of Subparts C and D  
464 of this Part.  
465  
466 C) Any person that is covered by subsection (c)(11)(A) of this Section  
467 that continues or initiates hazardous waste treatment or  
468 containment activities after the immediate response is over is  
469 subject to all applicable requirements of this Part and 35 Ill. Adm.  
470 Code 702, 703, and 705 for those activities;  
471  
472 D) In the case of an explosives or munitions emergency response, if a  
473 federal, state, or local official acting within the scope of his or her

474 official responsibilities or an explosives or munitions emergency  
 475 response specialist determines that immediate removal of the  
 476 material or waste is necessary to adequately protect human health  
 477 or the environment, that official or specialist may authorize the  
 478 removal of the material or waste by transporters that do not have  
 479 USEPA identification numbers and without the preparation of a  
 480 manifest. In the case of emergencies involving military munitions,  
 481 the responding military emergency response specialist's  
 482 organizational unit must retain records for three years identifying  
 483 the dates of the response, the responsible persons responding, the  
 484 type and description of material addressed, and its disposition;  
 485

- 486 12) A transporter storing manifested shipments of hazardous waste in  
 487 containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a  
 488 transfer facility for a period of ten days or less;  
 489  
 490 13) The addition of absorbent material to waste in a container (as defined in  
 491 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent  
 492 material in a container, provided that these actions occur at the time that  
 493 the waste is first placed in the containers and Sections 725.117(b),  
 494 725.271, and 725.272 are complied with;  
 495  
 496 14) A universal waste handler or universal waste transporter (as defined in 35  
 497 Ill. Adm. Code 720.110) that handles any of the wastes listed below is  
 498 subject to regulation pursuant to 35 Ill. Adm. Code 733 when handling the  
 499 following universal wastes:  
 500  
 501 A) Batteries, as described in 35 Ill. Adm. Code 733.102;  
 502  
 503 B) Pesticides, as described in 35 Ill. Adm. Code 733.103;  
 504  
 505 C) Mercury-containing equipment, as described in 35 Ill. Adm. Code  
 506 733.104;  
 507  
 508 D) Lamps, as described in 35 Ill. Adm. Code 733.105.

- 509  
 510 d) The following hazardous wastes must not be managed at facilities subject to  
 511 regulation pursuant to this Part: USEPA hazardous waste numbers F020, F021,  
 512 F022, F023, F026, or F027, unless the following conditions are fulfilled:  
 513  
 514 1) The wastewater treatment sludge is generated in a surface impoundment as  
 515 part of the plant's wastewater treatment system;  
 516

- 517           2)     The waste is stored in tanks or containers;  
518  
519           3)     The waste is stored or treated in waste piles that meet the requirements of  
520           35 Ill. Adm. Code 724.350(c) and all other applicable requirements of  
521           Subpart L of this Part;  
522  
523           4)     The waste is burned in incinerators that are certified pursuant to the  
524           standards and procedures in Section 725.452; or  
525  
526           5)     The waste is burned in facilities that thermally treat the waste in a device  
527           other than an incinerator and that are certified pursuant to the standards  
528           and procedures in Section 725.483.  
529  
530        e)     This Part applies to owners and operators of facilities that treat, store, or dispose  
531           of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm.  
532           Code 728 standards are considered material conditions or requirements of the  
533           interim status standards of this Part.  
534  
535        f)     35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to  
536           the storage of military munitions classified as solid waste pursuant to 35 Ill. Adm.  
537           Code 726.302. The treatment and disposal of hazardous waste military munitions  
538           are subject to the applicable permitting, procedural, and technical standards in 35  
539           Ill. Adm. Code 702, 703, 705, 720 through 728, and 738.  
540  
541        g)     Other bodies of regulations may apply to a person, facility, or activity, such as 35  
542           Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through  
543           817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or  
544           35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste),  
545           depending on the provisions of those other regulations.  
546

547           (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
548

549     **Section 725.104 Imminent Hazard Action**  
550

551     Notwithstanding any other provisions of these regulations, enforcement actions may be brought  
552     pursuant to Title VIII of the Illinois Environmental Protection Act [415 ILCS 5/Title VIII].  
553

554           (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
555

556                     **SUBPART B: GENERAL FACILITY STANDARDS**  
557

558     **Section 725.112 Required Notices**  
559

- 560 a) Receipt from a foreign source. The owner or operator of a facility that has  
 561 arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code  
 562 722, from a foreign source must submit the following required notices:  
 563
- 564 1) As required by 35 Ill. Adm. Code 722.184(b), for imports where the  
 565 competent authority of the country of export does not require the foreign  
 566 exporter to submit to it a notification proposing export and obtain consent  
 567 from USEPA and the competent authorities for the countries of transit, the  
 568 owner or operator of the facility, if acting as the importer, must provide  
 569 notification of the proposed transboundary movement in English to  
 570 USEPA using the allowable methods listed in 35 Ill. Adm. Code  
 571 722.184(b)(1). The owner or operator of a facility that has arranged to  
 572 receive hazardous waste from a foreign source must notify the Agency and  
 573 USEPA Region 5 in writing at least 60 days before four weeks in advance  
 574 of the first shipment date the waste is expected to depart the country of  
 575 export arrive at the facility. The notification may cover up to one year of  
 576 Notice of subsequent shipments of wastes having similar physical and  
 577 chemical characteristics; the same United Nations/USDOT identification  
 578 number from the Hazardous Materials Table in 49 CFR 172.101,  
 579 incorporated by reference in 35 Ill. Adm. Code 720.111; the same USEPA  
 580 hazardous waste numbers; and the same applicable OECD waste codes  
 581 from the lists in the OECD Guidance Manual, incorporated by reference in  
 582 35 Ill. Adm. Code 720.111; and being sent from the same foreign  
 583 exporter source is not required.  
 584
- 585 2) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), The owner or  
 586 operator of a recovery facility that has arranged to receive hazardous  
 587 waste subject to Subpart H of 35 Ill. Adm. Code 722 must provide a copy  
 588 of the movement document bearing all required signatures to the foreign  
 589 exporter, to the Office of Enforcement and Compliance Assurance, Office  
 590 of Federal Activities, International Compliance Assurance Division  
 591 (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave.,  
 592 NW, Washington, DC 20460; to the Bureau of Land, Division of Land  
 593 Pollution Control, Illinois Environmental Protection Agency, P.O. Box  
 594 19276, Springfield, IL 62794-9276; and to the competent authorities of all  
 595 other countries concerned within three working days after receipt of the  
 596 shipment to the foreign exporter; to the competent authorities of the  
 597 countries of export and transit that control the shipment as an export and  
 598 transit shipment of hazardous waste respectively; and on or after the  
 599 electronic import-export reporting compliance date, to EPA electronically  
 600 using USEPA's Waste Import Export Tracking System (WIETS). The  
 601 original of the signed movement document must be maintained at the  
 602 facility for at least three years. The owner or operator of a facility may

- 603 satisfy this recordkeeping requirement by retaining electronically  
 604 submitted documents in the facility's account on USEPA's WIETS,  
 605 provided that copies are readily available for viewing and production if  
 606 requested by any USEPA or Agency inspector. No owner or operator of a  
 607 facility may be held liable for the inability to produce the documents for  
 608 inspection under this section if the owner or operator of a facility can  
 609 demonstrate that the inability to produce the document is due exclusively  
 610 to technical difficulty with USEPA's WIETS for which the owner or  
 611 operator of a facility bears no responsibility. In addition, such owner or  
 612 operator must send a certificate of recovery to the foreign exporter, to the  
 613 competent authority of the country of export, to USEPA's Office of  
 614 Enforcement and Compliance Assurance at the above address by mail, by  
 615 e-mail without a digital signature followed by mail, or by fax followed by  
 616 mail. The owner or operator must complete this sending of a certificate of  
 617 recovery as soon as possible, but no later than 30 days after the completion  
 618 of recovery, and no later than one calendar year following the receipt of  
 619 the hazardous waste.  
 620
- 621 3) As required by 35 Ill. Adm. Code 722.184(f)(4), if the facility has physical  
 622 control of the waste and it must be sent to an alternate facility or returned  
 623 to the country of export, such owner or operator of the facility must inform  
 624 USEPA, using the allowable methods listed in 35 Ill. Adm. Code  
 625 722.184(b)(1) of the need to return or arrange alternate management of the  
 626 shipment.  
 627
- 628 4) As required by 35 Ill. Adm. Code 722.184(g), such owner or operator  
 629 must:  
 630
- 631 A) Send copies of the signed and dated confirmation of recovery or  
 632 disposal, as soon as possible, but no later than thirty days after  
 633 completing recovery or disposal on the waste in the shipment and  
 634 no later than one calendar year following receipt of the waste, to  
 635 the foreign exporter, to the competent authority of the country of  
 636 export that controls the shipment as an export of hazardous waste.  
 637 For shipments recycled or disposed of on or after the electronic  
 638 import-export reporting compliance date, to USEPA electronically  
 639 using USEPA's WIETS.  
 640
- 641 B) If the facility performed any of recovery operations R12, R13, or  
 642 RC16 or disposal operations D13 through D15 or DC17, promptly  
 643 send copies of the confirmation of recovery or disposal that it  
 644 receives from the final recovery or disposal facility within one year  
 645 of shipment delivery to the final recovery or disposal facility that

646 performed one of recovery operations R1 through R11 or RC16 or  
647 one of disposal operations D1 through D12, or DC15 to DC16, to  
648 the competent authority of the country of export that controls the  
649 shipment as an export of hazardous waste. On or after the  
650 electronic import-export reporting compliance date, to USEPA  
651 electronically using USEPA's WIETS. The recovery and disposal  
652 operations in this paragraph are defined in 35 Ill. Adm. Code  
653 722.181.  
654

- 655
- 656 b) Before transferring ownership or operation of a facility during its operating life,  
657 or of a disposal facility during the post-closure care period, the owner or operator  
658 must notify the new owner or operator in writing of the requirements of this Part  
659 and 35 Ill. Adm. Code 702 and 703 (also see 35 Ill. Adm. Code 703.155).  
660

661 BOARD NOTE: An owner's or operator's failure to notify the new owner or  
662 operator of the requirements of this Part in no way relieves the new owner or  
663 operator of his obligation to comply with all applicable requirements.  
664

665 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
666

667 **Section 725.113 General Waste Analysis**  
668

- 669 a) Waste analysis:  
670

- 671 1) Before an owner or operator treats, stores, or disposes of any hazardous  
672 wastes, or non-hazardous wastes if applicable under Section 725.213(d),  
673 the owner or operator must obtain a detailed chemical and physical  
674 analysis of a representative sample of the wastes. At a minimum, the  
675 analysis must contain all the information that must be known to treat,  
676 store, or dispose of the waste in accordance with this Part and 35 Ill. Adm.  
677 Code 728.  
678
- 679 2) The analysis may include data developed under 35 Ill. Adm. Code 721 and  
680 existing published or documented data on the hazardous waste or on waste  
681 generated from similar processes.  
682

683 BOARD NOTE: For example, the facility's record of analyses performed  
684 on the waste before the effective date of these regulations or studies  
685 conducted on hazardous waste generated from processes similar to that  
686 which generated the waste to be managed at the facility may be included  
687 in the data base required to comply with subsection (a)(1) of this Section,  
688 except as otherwise specified in 35 Ill. Adm. Code 728.107(b) and (c). The

689 owner or operator of an off-site facility may arrange for the generator of  
 690 the hazardous waste to supply part or all of the information required by  
 691 subsection (a)(1) ~~of this Section~~. If the generator does not supply the  
 692 information and the owner or operator chooses to accept a hazardous  
 693 waste, the owner or operator is responsible for obtaining the information  
 694 required to comply with this Section.

695  
 696 3) The analysis must be repeated as necessary to ensure that it is accurate and  
 697 up to date. At a minimum, the analysis must be repeated as follows:

698  
 699 A) When the owner or operator is notified or has reason to believe that  
 700 the process or operation generating the hazardous waste, or non-  
 701 hazardous waste if applicable under Section 725.213(d), has  
 702 changed; and

703  
 704 B) For off-site facilities, when the results of the inspection required in  
 705 subsection (a)(4) ~~of this Section~~ indicate that the hazardous waste  
 706 received at the facility does not match the waste designated on the  
 707 accompanying manifest or shipping paper.

708  
 709 4) The owner or operator of an off-site facility must inspect and, if necessary,  
 710 analyze each hazardous waste movement received at the facility to  
 711 determine whether it matches the identity of the waste specified on the  
 712 accompanying manifest or shipping paper.

713  
 714 b) The owner or operator must develop and follow a written waste analysis plan that  
 715 describes the procedures that the owner or operator will carry out to comply with  
 716 subsection (a) ~~of this Section~~. The owner or operator must keep this plan at the  
 717 facility. At a minimum, the plan must specify the following:

718  
 719 1) The parameters for which each hazardous waste, or non-hazardous waste  
 720 if applicable under Section 725.213(d), will be analyzed and the rationale  
 721 for the selection of these parameters (i.e., how analysis for these  
 722 parameters will provide sufficient information on the waste's properties to  
 723 comply with subsection (a) ~~of this Section~~).

724  
 725 2) The test methods that will be used to test for these parameters.

726  
 727 3) The sampling method that will be used to obtain a representative sample  
 728 of the waste to be analyzed. A representative sample may be obtained  
 729 using either of the following methods:

730  
 731 A) One of the sampling methods described in Appendix A to 35 Ill.

732  
733  
734  
735  
736  
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Adm. Code 721, or

B) An equivalent sampling method.

BOARD NOTE: See 35 Ill. Adm. Code 720.120(c) for related discussion.

- 4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.
- 5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply.
- 6) Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods, as specified in Sections 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934(d), 725.963(d), and 725.984 and 35 Ill. Adm. Code 728.107.
- 7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for the following:
  - A) The sampling of impoundment contents;
  - B) The analysis of test data; and
  - C) The annual removal of residues that are not delisted under 35 Ill. Adm. Code 720.122 or that exhibit a characteristic of hazardous waste and either of the following is true:
    - i) The waste residues do not meet the applicable treatment standards of Subpart D of 35 Ill. Adm. Code 728, or
    - ii) Where no treatment standards have been established, the waste residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139.
- 8) For an owner or operator seeking an exemption to the air emission standards of Subpart CC of 35 Ill. Adm. Code 724 in accordance with Section 725.983:
  - A) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the

775 analysis of test data to verify the exemption.

776  
777 B) If knowledge of the waste is used for the waste determination, any  
778 information prepared by the facility owner or operator, or by the  
779 generator of the waste if the waste is received from off-site, that is  
780 used as the basis for knowledge of the waste.

781  
782 c) For off-site facilities, the waste analysis plan required in subsection (b) of this  
783 ~~Section~~ must also specify the procedures that will be used to inspect and, if  
784 necessary, analyze each movement of hazardous waste received at the facility to  
785 ensure that it matches the identity of the waste designated on the accompanying  
786 manifest or shipping paper. At a minimum, the plan must describe the following:

- 787  
788 1) The procedures that will be used to determine the identity of each  
789 movement of waste managed at the facility;
- 790  
791 2) The sampling method that will be used to obtain a representative sample  
792 of the waste to be identified if the identification method includes  
793 sampling; and
- 794  
795 3) The procedures that the owner or operator of an off-site landfill receiving  
796 containerized hazardous waste will use to determine whether a hazardous  
797 waste generator or treater has added a biodegradable sorbent to the waste  
798 in the container.

799  
800 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

801  
802 **Section 725.114 Security**

- 803  
804 a) The owner or operator must prevent the unknowing entry and minimize the  
805 possibility for the unauthorized entry of persons or livestock onto the active  
806 portion of his facility, unless the following are true:
- 807  
808 1) Physical contact with the waste, structures, or equipment of the active  
809 portion of the facility will not injure unknowing or unauthorized persons  
810 or livestock that may enter the active portion of the facility; and
- 811  
812 2) Disturbance of the waste or equipment by the unknowing or unauthorized  
813 entry of persons or livestock onto the active portion of a facility will not  
814 cause a violation of the requirements of this Part.
- 815  
816 b) Unless exempt under subsections (a)(1) and (a)(2) of this Section, a facility must  
817 have the following:

- 818  
819 1) A 24-hour surveillance system (e.g., television monitoring or surveillance  
820 by guards or facility personnel) that continuously monitors and controls  
821 entry into the active portion of the facility; or  
822  
823 2) Controlled access, including the following minimum elements:  
824  
825 A) An artificial or natural barrier (e.g., a fence in good repair or a  
826 fence combined with a cliff) that completely surrounds the active  
827 portion of the facility; and  
828  
829 B) A means to control entry at all times through the gates or other  
830 entrances to the active portion of the facility (e.g., an attendant,  
831 television monitors, locked entrance, or controlled roadway access  
832 to the facility).

833  
834 BOARD NOTE: The requirements of subsection (b) of this  
835 Section are satisfied if the facility or plant within which the active  
836 portion is located itself has a surveillance system or a barrier and a  
837 means to control entry that complies with the requirements of  
838 subsection (b)(1) or (b)(2) of this Section.  
839

- 840 c) Unless exempt under subsection (a)(1) or (a)(2) of this Section, a sign with the  
841 legend, "Danger – Unauthorized Personnel Keep Out," must be posted at each  
842 entrance to the active portion of a facility and at other locations in sufficient  
843 numbers to be seen from any approach to this active portion. The sign must be  
844 legible from a distance of at least 25 feet. Existing signs with a legend other than  
845 "Danger – Unauthorized Personnel Keep Out" may be used if the legend on the  
846 sign indicates that only authorized personnel are allowed to enter the active  
847 portion and that entry onto the active portion can be dangerous.  
848

849 BOARD NOTE: See Section 725.217(b) for discussion of security requirements  
850 at disposal facilities during the post-closure care period.  
851

852 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
853

854 **Section 725.116 Personnel Training**  
855

- 856 a) Personnel training program.  
857  
858 1) Facility personnel must successfully complete a program of classroom  
859 instruction or on-the-job training that teaches them to perform their duties  
860 in a way that ensures the facility's compliance with the requirements of

- 861 this part. The owner or operator must ensure that this program includes all  
 862 the elements described in the document required under subsection (d)(3)  
 863 of this Section.  
 864
- 865 2) This program must be directed by a person trained in hazardous waste  
 866 management procedures, and must include instruction that teaches facility  
 867 personnel hazardous waste management procedures (including  
 868 contingency plan implementation) relevant to the positions in which they  
 869 are employed.  
 870
- 871 3) At a minimum, the training program must be designed to ensure that  
 872 facility personnel are able to respond effectively to emergencies by  
 873 familiarizing them with emergency procedures, emergency equipment and  
 874 emergency systems, including the following where applicable:  
 875
- 876 A) Procedures for using, inspecting, repairing and replacing facility  
 877 emergency and monitoring equipment;
  - 878 B) Key parameters for automatic waste feed cut-off systems;
  - 879 C) Communications or alarm systems;
  - 880 D) Response to fires or explosions;
  - 881 E) Response to groundwater contamination incidents; and
  - 882 F) Shutdown of operations.
- 883
- 884 4) For facility employees that receive emergency response training pursuant  
 885 to the federal Occupational Safety and Health Administration (OSHA)  
 886 regulations at 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not  
 887 required to provide separate emergency response training pursuant to this  
 888 section, provided that the overall facility OSHA emergency response  
 889 training meets all the requirements of this Section.  
 890
- 891
- 892 b) Facility personnel must successfully complete the program required in subsection  
 893 (a) of this Section upon the effective date of these regulations or six months after  
 894 the date of their employment or assignment to a facility or to a new position at a  
 895 facility, whichever is later. Employees hired after the effective date of these  
 896 regulations must not work in unsupervised positions until they have completed the  
 897 training requirements of subsection (a) of this Section.  
 898
- 899
- 900 c) Facility personnel must take part in an annual review of the initial training  
 901  
 902  
 903

- 904 required in subsection (a) ~~of this Section.~~
- 905
- 906 d) The owner or operator must maintain the following documents and records at the
- 907 facility:
- 908
- 909 1) The job title for each position at the facility related to hazardous waste
- 910 management and the name of the employee filling each job;
- 911
- 912 2) A written job description for each position listed under subsection (d)(1)
- 913 ~~of this Section.~~ This description may be consistent in its degree of
- 914 specificity with descriptions for other similar positions in the same
- 915 company location or bargaining unit, but must include the requisite skill,
- 916 education, or other qualifications and duties of facility personnel assigned
- 917 to each position;
- 918
- 919 3) A written description of the type and amount of both introductory and
- 920 continuing training that will be given to each person filling a position
- 921 listed under subsection (d)(1) ~~of this Section;~~
- 922
- 923 4) Records that document that the training or job experience required under
- 924 subsections (a), (b), and (c) ~~of this Section~~ has been given to and
- 925 completed by facility personnel.
- 926
- 927 e) Training records on current personnel must be kept until closure of the facility.
- 928 Training records on former employees must be kept for at least three years from
- 929 the date the employee last worked at the facility. Personnel training records may
- 930 accompany personnel transferred within the same company.
- 931

932 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

933

934 **Section 725.119 Construction Quality Assurance Program**

935

- 936 a) CQA program.
- 937
- 938 1) A construction quality assurance (CQA) program is required for all
- 939 surface impoundment, waste pile and landfill units that are required to
- 940 comply with Sections 725.321(a), 725.354, and 725.401(a). The program
- 941 must ensure that the constructed unit meets or exceeds all design criteria
- 942 and specifications in this Part. The program must be developed and
- 943 implemented under the direction of a CQA officer that is a registered
- 944 professional engineer.
- 945
- 946 2) The CQA program must address the following physical components,

- 947 where applicable:
- 948
- 949 A) Foundations;
- 950
- 951 B) Dikes;
- 952
- 953 C) Low-permeability soil liners;
- 954
- 955 D) Geomembranes (flexible membrane liners);
- 956
- 957 E) Leachate collection and removal systems and leak detection
- 958 systems; and
- 959
- 960 F) Final cover systems.

961

962 b) Written CQA plan. Before construction begins on a unit subject to the CQA

963 program under subsection (a) of this Section, the owner or operator must develop

964 a written CQA plan. The plan must identify steps that will be used to monitor and

965 document the quality of materials and the condition and manner of their

966 installation. The CQA plan must include the following:

- 967
- 968 1) Identification of applicable units and a description of how they will be
- 969 constructed.
- 970
- 971 2) Identification of key personnel in the development and implementation of
- 972 the CQA plan, and CQA officer qualifications.
- 973
- 974 3) A description of inspection and sampling activities for all unit components
- 975 identified in subsection (a)(2) of this Section, including observations and
- 976 tests that will be used before, during and after construction to ensure that
- 977 the construction materials and the installed unit components meet the
- 978 design specifications. The description must cover: Sampling size and
- 979 locations; frequency of testing; data evaluation procedures; acceptance and
- 980 rejection criteria for construction materials; plans for implementing
- 981 corrective measures; and data or other information to be recorded and
- 982 retained in the operating record under Section 725.173.

983

984 c) Contents of program.

- 985
- 986 1) The CQA program must include observations, inspections, tests and
- 987 measurements sufficient to ensure the following:
- 988
- 989 A) Structural stability and integrity of all components of the unit

- 990 identified in subsection (a)(2) of this Section;  
991  
992 B) Proper construction of all components of the liners, leachate  
993 collection and removal system, leak detection system, and final  
994 cover system, according to permit specifications and good  
995 engineering practices, and proper installation of all components  
996 (e.g., pipes) according to design specifications;  
997  
998 C) Conformity of all materials used with design and other material  
999 specifications under 35 Ill. Adm. Code 724.321, 724.351, and  
1000 724.401.  
1001  
1002 2) The CQA program must include test fills for compacted soil liners, using  
1003 the same compaction methods as in the full-scale unit, to ensure that the  
1004 liners are constructed to meet the hydraulic conductivity requirements of  
1005 35 Ill. Adm. Code 724.321(c)(1), 724.351(c)(1), or 724.401(c)(1) in the  
1006 field. Compliance with the hydraulic conductivity requirements must be  
1007 verified by using in-situ testing on the constructed test fill. The test fill  
1008 requirement is waived where data are sufficient to show that a constructed  
1009 soil liner meets the hydraulic conductivity requirements of 35 Ill. Adm.  
1010 Code 724.321(c)(1), 724.351(c)(1), or 724.401(c)(1) in the field.  
1011  
1012 d) Certification. The owner or operator of units subject to this Section must submit  
1013 to the Agency by certified mail or hand delivery, at least 30 days prior to  
1014 receiving waste, a certification signed by the CQA officer that the CQA plan has  
1015 been successfully carried out and that the unit meets the requirements of Sections  
1016 725.321(a), 725.354, or 725.401(a). The owner or operator may receive waste in  
1017 the unit after 30 days from the Agency's receipt of the CQA certification unless  
1018 the Agency determines in writing that the construction is not acceptable, or  
1019 extends the review period for a maximum of 30 more days, or seeks additional  
1020 information from the owner or operator during this period. Documentation  
1021 supporting the CQA officer's certification must be furnished to the Agency upon  
1022 request.  
1023  
1024 e) Final Agency determinations pursuant to this Section are deemed to be permit  
1025 denials for purposes of appeal to the Board pursuant to Section 40 of the  
1026 Environmental Protection Act [415 ILCS 5/40].  
1027

1028 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1029

1030 **SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING**  
1031

1032 **Section 725.171 Use of Manifest System**

- 1033  
 1034 a) Receipt of manifested hazardous waste.  
 1035  
 1036 1) If a facility receives hazardous waste accompanied by a manifest, the  
 1037 owner, operator, or its agent must sign and date the manifest, as indicated  
 1038 in subsection (a)(2) ~~of this Section~~, to certify that the hazardous waste  
 1039 covered by the manifest was received, that the hazardous waste was  
 1040 received except as noted in the discrepancy space of the manifest, or that  
 1041 the hazardous waste was rejected as noted in the manifest discrepancy  
 1042 space.  
 1043  
 1044 2) If a facility receives a hazardous waste shipment accompanied by a  
 1045 manifest, the owner, operator, or its agent must do the following:  
 1046  
 1047 A) The owner, operator, or agent must sign and date, by hand, each  
 1048 copy of the manifest;  
 1049  
 1050 B) The owner, operator, or agent must note any discrepancies (as  
 1051 defined in 35 Ill. Adm. Code 724.172) on each copy of the  
 1052 manifest;  
 1053  
 1054 C) The owner, operator, or agent must immediately give the  
 1055 transporter at least one copy of the manifest;  
 1056  
 1057 D) The owner, operator, or agent must send a copy (Page 3) of the  
 1058 manifest to the generator within 30 days after delivery;  
 1059  
 1060 E) Within 30 days after delivery, the owner, operator, or agent must  
 1061 send the top copy (Page 1) of the manifest to the e-Manifest  
 1062 System for purposes of data entry and processing. In lieu of  
 1063 mailing this paper copy to the e-Manifest System operator, the  
 1064 owner or operator may transmit to the e-Manifest System operator  
 1065 an image file of Page 1 of the manifest, or both a data string file  
 1066 and the image file corresponding to Page 1 of the manifest. Any  
 1067 data or image files transmitted to the e-Manifest System operator  
 1068 under this subsection (a) must be submitted in data file and image  
 1069 file formats that are acceptable to USEPA and that are supported  
 1070 by USEPA's electronic reporting requirements and by the e-  
 1071 Manifest System; and  
 1072  
 1073 F) The owner, operator, or agent must retain at the facility a copy of  
 1074 each manifest for at least three years after the date of delivery.  
 1075

- 1076 3) The owner or operator of a facility that receives hazardous waste subject  
 1077 to Subpart H of 35 Ill. Adm. Code 722 imported from a foreign source  
 1078 must; the receiving facility must mail a copy of the manifest and  
 1079 documentation confirming USEPA's consent to the import of hazardous  
 1080 waste to the following address within 30 days after delivery: Office of  
 1081 Enforcement and Compliance Assurance, Office of Federal Activities,  
 1082 International Compliance Assurance Division (2254A), U.S.  
 1083 Environmental Protection Agency, 1200 Pennsylvania Avenue, NW,  
 1084 Washington, DC 20460.  
 1085  
 1086 A) Additionally list the relevant consent number from consent  
 1087 documentation supplied by USEPA to the facility for each waste  
 1088 listed on the hazardous waste manifest (USEPA Form 8700-22),  
 1089 matched to the relevant list number for the waste from block 9b. If  
 1090 additional space is needed, the owner or operator should use  
 1091 Continuation Sheets (USEPA Form 8700-22A); and  
 1092  
 1093 B) Send a copy of the manifest to USEPA using the addresses listed in  
 1094 35 Ill. Adm. Code 722.182(e) within 30 days of delivery until the  
 1095 facility can submit such a copy to the e-Manifest system per  
 1096 subsection (a)(2)(E).  
 1097  
 1098 b) If a facility receives from a rail or water (bulk shipment) transporter hazardous  
 1099 waste that is accompanied by a shipping paper containing all the information  
 1100 required on the manifest (excluding the USEPA identification numbers, generator  
 1101 certification, and signatures), the owner or operator or its agent must do each of  
 1102 the following:  
 1103  
 1104 1) It must sign and date each copy of the manifest or shipping paper (if the  
 1105 manifest has not been received) to certify that the hazardous waste  
 1106 covered by the manifest or shipping paper was received;  
 1107  
 1108 2) It must note any significant discrepancies, as defined in Section  
 1109 725.172(a), in the manifest or shipping paper (if the manifest has not been  
 1110 received) on each copy of the manifest or shipping paper;  
 1111  
 1112 BOARD NOTE: The owner or operator of a facility whose procedures  
 1113 under Section 725.113(c) include waste analysis need not perform that  
 1114 analysis before signing the shipping paper and giving it to the transporter.  
 1115 Section 725.172(b), however, requires reporting an unreconciled  
 1116 discrepancy discovered during later analysis.  
 1117  
 1118 3) It must immediately give the rail or water (bulk shipment) transporter at  
 1119 least one copy of the manifest or shipping paper (if the manifest has not

1120 been received);

1121  
 1122 4) The owner or operator must send a copy of the signed and dated manifest  
 1123 or a signed and dated copy of the shipping paper (if the manifest has not  
 1124 been received within 30 days after delivery) to the generator within 30  
 1125 days after the delivery; and

1126  
 1127 BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to  
 1128 send three copies of the manifest to the facility when hazardous waste is  
 1129 sent by rail or water (bulk shipment).

1130  
 1131 5) Retain at the facility a copy of the manifest and shipping paper (if signed  
 1132 in lieu of the manifest at the time of delivery) for at least three years from  
 1133 the date of delivery.

1134  
 1135 c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or  
 1136 operator of that facility must comply with the requirements of 35 Ill. Adm. Code  
 1137 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 apply to  
 1138 the on-site accumulation of hazardous wastes by generators. Therefore, the  
 1139 provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 only apply to an  
 1140 owner or operator that ships hazardous waste which it generated at that facility or  
 1141 operating as an LQG consolidating hazardous waste from VSQGs under 35 Ill.  
 1142 Adm. Code 722.117(f).

1143  
 1144 ~~BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to~~  
 1145 ~~the on-site accumulation of hazardous wastes by generators. Therefore, the~~  
 1146 ~~provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that~~  
 1147 ~~are shipping hazardous waste which they generated at that facility.~~

1148  
 1149 d) ~~As required by 40 CFR 262.84(d)(2)(O), within~~ Within three working days after  
 1150 the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the  
 1151 owner or operator of a facility must provide a copy of the movement document  
 1152 bearing all required signatures to the foreign exporter; and to the Office of  
 1153 Enforcement and Compliance Assurance, Office of Federal Activities,  
 1154 International Compliance Assurance Division (2254A), Environmental Protection  
 1155 Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of  
 1156 Land, Division of Land Pollution Control, Illinois Environmental Protection  
 1157 Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent  
 1158 authorities of the all other countries of export and transit that control the shipment  
 1159 as an export or transit of hazardous waste. On or after the electronic import-  
 1160 export reporting compliance date, to USEPA electronically using USEPA's  
 1161 WIETSeconcerned. The original copy of the tracking document must be  
 1162 maintained at the facility for at least three years from the date of signature. The

owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS, for which the owner or operator of a facility bears no responsibility.

- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
  - 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
  - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
  - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
  - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-

- 1205 Manifest System, provided that such copies are readily available for  
 1206 viewing and production if requested by any USEPA or Agency inspector.  
 1207
- 1208 5) No owner or operator may be held liable for the inability to produce an e-  
 1209 Manifest for inspection under this Section if the owner or operator can  
 1210 demonstrate that the inability to produce the e-Manifest is due exclusively  
 1211 to a technical difficulty with the e-Manifest System for which the owner or  
 1212 operator bears no responsibility.  
 1213
- 1214 g) An owner or operator may participate in the e-Manifest System either by  
 1215 accessing the e-Manifest System from the owner's or operator's electronic  
 1216 equipment, or by accessing the e-Manifest System from portable equipment  
 1217 brought to the owner's or operator's site by the transporter that delivers the waste  
 1218 shipment to the facility.  
 1219
- 1220 h) Special procedures applicable to replacement manifests. If a facility receives  
 1221 hazardous waste that is accompanied by a paper replacement manifest for a  
 1222 manifest that was originated electronically, the following procedures apply to the  
 1223 delivery of the hazardous waste by the final transporter:  
 1224
- 1225 1) Upon delivery of the hazardous waste to the designated facility, the owner  
 1226 or operator must sign and date each copy of the paper replacement  
 1227 manifest by hand in Item 20 (Designated Facility Certification of Receipt)  
 1228 and note any discrepancies in Item 18 (Discrepancy Indication Space) of  
 1229 the paper replacement manifest;  
 1230
- 1231 2) The owner or operator of the facility must give back to the final  
 1232 transporter one copy of the paper replacement manifest;  
 1233
- 1234 3) Within 30 days after delivery of the hazardous waste to the designated  
 1235 facility, the owner or operator of the facility must send one signed and  
 1236 dated copy of the paper replacement manifest to the generator and send an  
 1237 additional signed and dated copy of the paper replacement manifest to the  
 1238 e-Manifest System; and  
 1239
- 1240 4) The owner or operator of the facility must retain at the facility one copy of  
 1241 the paper replacement manifest for at least three years after the date of  
 1242 delivery.  
 1243
- 1244 i) Special procedures applicable to electronic signature methods undergoing tests. If  
 1245 an owner or operator using an e-Manifest signs this manifest electronically using  
 1246 an electronic signature method that is undergoing pilot or demonstration tests  
 1247 aimed at demonstrating the practicality or legal dependability of the signature

method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.

- j) Imposition of user fee for e-Manifest use. An owner or operator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 725.171(a)(2)(E). USEPA has stated that it would maintain and update from time-to-time the current schedule of e-Manifest System user fees, which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.
- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

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

**Section 725.172 Manifest Discrepancies**

- a) "Manifest discrepancies" are defined as any one of the following:
  - 1) Significant differences (as defined by subsection (b) of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;
  - 2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or
  - 3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).
- b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent

- 1290 substituted for waste acid, or as toxic constituents not reported on the manifest or  
 1291 shipping paper.
- 1292
- 1293 c) Upon discovering a significant difference in quantity or type, the owner or  
 1294 operator must attempt to reconcile the discrepancy with the waste generator or  
 1295 transporter (e.g., with telephone conversations). If the discrepancy is not resolved  
 1296 within 15 days after receiving the waste, the owner or operator must immediately  
 1297 submit to the Agency a letter describing the discrepancy and attempts to reconcile  
 1298 it, and a copy of the manifest or shipping paper at issue.
- 1299
- 1300 d) Rejection of hazardous waste.
- 1301
- 1302 1) Upon rejecting waste or identifying a container residue that exceeds the  
 1303 quantity limits for empty containers set forth in 35 Ill. Adm. Code  
 1304 721.107(b), the facility owner or operator must consult with the generator  
 1305 prior to forwarding the waste to another facility that can manage the  
 1306 waste. If it is impossible to locate an alternative facility that can receive  
 1307 the waste, the facility owner or operator may return the rejected waste or  
 1308 residue to the generator. The facility owner or operator must send the  
 1309 waste to the alternative facility or to the generator within 60 days after the  
 1310 rejection or the container residue identification.
- 1311
- 1312 2) While the facility owner or operator is making arrangements for  
 1313 forwarding rejected wastes or residues to another facility under this  
 1314 Section, it must ensure that either the delivering transporter retains  
 1315 custody of the waste, or the facility owner or operator must provide for  
 1316 secure, temporary custody of the waste, pending delivery of the waste to  
 1317 the first transporter designated on the manifest prepared under subsection  
 1318 (e) or (f) of this Section.
- 1319
- 1320 e) Except as provided in subsection (e)(7) of this Section, for full or partial load  
 1321 rejections and residues that are to be sent off-site to an alternate facility, the  
 1322 facility owner or operator is required to prepare a new manifest in accordance  
 1323 with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections  
 1324 (e)(1) through (e)(6) of this Section:
- 1325
- 1326 1) The facility owner or operator must write the generator's USEPA  
 1327 identification number in Item 1 of the new manifest. The facility owner or  
 1328 operator must write the generator's name and mailing address in Item 5 of  
 1329 the new manifest. If the mailing address is different from the generator's  
 1330 site address, then the facility owner or operator must write the generator's  
 1331 site address in the designated space in Item 5.
- 1332

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- 2) The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.
  - 3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.
  - 4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).
  - 5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.
  - 6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.
  - 7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6) ~~of this Section~~.
- f) Except as provided in subsection (f)(7) ~~of this Section~~, for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (f)(1) through (f)(6) and (f)(8) ~~of this Section~~:
- 1) The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site

- 1376 address, then the facility owner or operator must write the facility's site  
 1377 address in the designated space for Item 5 of the new manifest.  
 1378
- 1379 2) The facility owner or operator must write the name of the initial generator  
 1380 and the generator's USEPA identification number in the designated facility  
 1381 block (Item 8) of the new manifest.  
 1382
- 1383 3) The facility owner or operator must copy the manifest tracking number  
 1384 found in Item 4 of the old manifest to the Special Handling and Additional  
 1385 Information Block of the new manifest, and indicate that the shipment is a  
 1386 residue or rejected waste from the previous shipment.  
 1387
- 1388 4) The facility owner or operator must copy the manifest tracking number  
 1389 found in Item 4 of the new manifest to the manifest reference number line  
 1390 in the Discrepancy Block of the old manifest (Item 18a).  
 1391
- 1392 5) The facility owner or operator must write the USDOT description for the  
 1393 rejected load or the residue in Item 9 (USDOT Description) of the new  
 1394 manifest and write the container types, quantity, and volumes of waste.  
 1395
- 1396 6) The facility owner or operator must sign the Generator's/Offeror's  
 1397 Certification to certify, as offeror of the shipment, that the waste has been  
 1398 properly packaged, marked and labeled and is in proper condition for  
 1399 transportation.  
 1400
- 1401 7) For full load rejections that are made while the transporter remains at the  
 1402 facility, the facility owner or operator may return the shipment to the  
 1403 generator with the original manifest by completing Item 18b of the  
 1404 manifest and supplying the generator's information in the Alternate  
 1405 Facility space. The facility owner or operator must retain a copy for its  
 1406 records and then give the remaining copies of the manifest to the  
 1407 transporter to accompany the shipment. If the original manifest is not  
 1408 used, then the facility owner or operator must use a new manifest and  
 1409 comply with subsections (f)(1) through (f)(6) and (f)(8) of this Section.  
 1410
- 1411 8) For full or partial load rejections and container residues contained in non-  
 1412 empty containers that are returned to the generator, the facility owner or  
 1413 operator must also comply with the exception reporting requirements in  
 1414 Section 722.142(a).  
 1415
- 1416 g) If a facility owner or operator rejects a waste or identifies a container residue that  
 1417 exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code  
 1418 721.107(b) after it has signed, dated, and returned a copy of the manifest to the

1419 delivering transporter or to the generator, the facility owner or operator must  
 1420 amend its copy of the manifest to indicate the rejected wastes or residues in the  
 1421 discrepancy space of the amended manifest. The facility owner or operator must  
 1422 also copy the manifest tracking number from Item 4 of the new manifest to the  
 1423 Discrepancy space of the amended manifest, and must re-sign and date the  
 1424 manifest to certify to the information as amended. The facility owner or operator  
 1425 must retain the amended manifest for at least three years from the date of  
 1426 amendment, and must, within 30 days, send a copy of the amended manifest to  
 1427 the transporter and generator that received copies prior to their being amended.  
 1428

1429 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 1430

1431 **Section 725.173 Operating Record**  
 1432

- 1433 a) The owner or operator must keep a written operating record at the facility.  
 1434
- 1435 b) The following information must be recorded as it becomes available and  
 1436 maintained in the operating record for three years unless otherwise provided as  
 1437 follows:  
 1438
  - 1439 1) A description and the quantity of each hazardous waste received and the  
 1440 methods and dates of its treatment, storage, or disposal at the facility, as  
 1441 required by Appendix A to this Part. This information must be maintained  
 1442 in the operating record until closure of the facility;  
 1443
  - 1444 2) The location of each hazardous waste within the facility and the quantity  
 1445 at each location. For disposal facilities the location and quantity of each  
 1446 hazardous waste must be recorded on a map or diagram that shows each  
 1447 cell or disposal area. For all facilities this information must include cross-  
 1448 references to manifest document numbers if the waste was accompanied  
 1449 by a manifest. This information must be maintained in the operating  
 1450 record until closure of the facility;  
 1451
  - 1452 BOARD NOTE: See Sections 725.219, 725.379, and 725.409 for related  
 1453 requirements.  
 1454
  - 1455 3) Records and results of waste analysis, waste determinations, and trial tests  
 1456 performed, as specified in Sections 725.113, 725.300, 725.325, 725.352,  
 1457 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and  
 1458 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;  
 1459
  - 1460 4) Summary reports and details of all incidents that require implementing the  
 1461 contingency plan, as specified in Section 725.156(j);

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- 5) Records and results of inspections, as required by Section 725.115(d) (except these data need be kept only three years);
  - 6) Monitoring, testing, or analytical data, where required by Subpart F of this Part or Sections 725.119, 725.194, 725.291, 725.293, 725.295, 725.324, 725.326, 725.355, 725.360, 725.376, 725.378, 725.380(d)(1), 725.402, 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and 725.983 through 725.990. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility;  
  
BOARD NOTE: As required by Section 725.194, monitoring data at disposal facilities must be kept throughout the post-closure period.
  - 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244 must be maintained in the operating record until closure of the facility;
  - 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or a certification under 35 Ill. Adm. Code 728.108 and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a). All of this information must be maintained in the operating record until closure of the facility;
  - 9) For an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
  - 10) For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
  - 11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;

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- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;
  - 13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
  - 14) For an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and
  - 15) Monitoring, testing or analytical data, and corrective action, where required by Sections 725.190 and 725.193(d)(2) and (d)(5), and the certification, as required by Section 725.296(f), must be maintained in the operating record until closure of the facility.

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

**Section 725.175 Annual Report**

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 1529  
 1530 The owner and operator must ~~complete~~prepare and submit a Hazardous Waste Report (USEPA  
 1531 Form 87-13 A/B)single copy of an annual report to the Agency by March 1 of ~~the following~~each  
 1532 year ~~and~~. The report form and instructions supplied by the Agency must be used for this report.  
 1533 ~~The annual report must cover facility activities during the previous calendar year, and must~~  
 1534 ~~include the following information:~~

- 1535  
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 1547
- a) ~~The~~USEPA identification number (Section 725.111), name and address of the facility;
  - b) ~~The~~calendar year covered by the report;
  - e) ~~For off-site facilities, the~~USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; ~~for imported shipments, the report must give the name and address of the foreign generator;~~
  - d) ~~A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities this information must be listed by USEPA~~

- 1548 identification number of each generator;
- 1549
- 1550 e) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
- 1551
- 1552 f) ~~Monitoring data under Section 725.194(a)(2)(B), (a)(2)(C), and (b)(2), where~~
- 1553 ~~required;~~
- 1554
- 1555 g) ~~The most recent closure cost estimate under Section 725.242 and for disposal~~
- 1556 ~~facilities the most recent post-closure cost estimate under Section 725.244;~~
- 1557
- 1558 h) ~~For generators that treat, store, or dispose of hazardous waste on-site, a~~
- 1559 ~~description of the efforts undertaken during the year to reduce the volume and~~
- 1560 ~~toxicity of the waste generated;~~
- 1561
- 1562 i) ~~For generators that treat, store, or dispose of hazardous waste on-site, a~~
- 1563 ~~description of the changes in volume and toxicity of waste actually achieved~~
- 1564 ~~during the year in comparison to previous years, to the extent such information is~~
- 1565 ~~available for years prior to 1984; and~~
- 1566
- 1567 j) ~~The certification signed by the owner or operator of the facility or the owner or~~
- 1568 ~~operator's authorized representative.~~

1569

1570 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1571

1572 **Section 725.176 Unmanifested Waste Report**

1573

- 1574 a) If a facility accepts for treatment, storage, or disposal any hazardous waste from
- 1575 an off-site source without an accompanying manifest, or without an
- 1576 accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and
- 1577 if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code
- 1578 260 through 265, then the owner or operator must prepare and submit a letter to
- 1579 the Agency within 15 days after receiving the waste. The unmanifested waste
- 1580 report must contain the following information:
- 1581
- 1582 1) The USEPA identification number, name, and address of the facility;
- 1583
- 1584 2) The date the facility received the waste;
- 1585
- 1586 3) The USEPA identification number, name, and address of the generator and
- 1587 the transporter, if available;
- 1588
- 1589 4) A description and the quantity of each unmanifested hazardous waste the
- 1590 facility received;

- 1591  
 1592 5) The method of treatment, storage, or disposal for each hazardous waste;  
 1593  
 1594 6) The certification signed by the owner or operator of the facility or its  
 1595 authorized representative; and  
 1596  
 1597 7) A brief explanation of why the waste was unmanifested, if known.  
 1598  
 1599 b) This subsection (b) corresponds with 40 CFR 265.76(b), which USEPA has  
 1600 marked "reserved:". This statement maintains structural consistency with the  
 1601 corresponding federal regulations.  
 1602

1603 BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under  
 1604 this Part and do not require a manifest. Where a facility received unmanifested  
 1605 hazardous waste, USEPA has suggested that the owner or operator obtain from each  
 1606 generator a certification that the waste qualifies for exclusion. Otherwise, USEPA has  
 1607 suggested that the owner or operator file an unmanifested waste report for the hazardous  
 1608 waste movement.  
 1609

1610 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 1611

1612 **Section 725.177 Additional Reports**  
 1613

1614 In addition to submitting the annual report and unmanifested waste reports described in Sections  
 1615 725.175 and 725.176, the owner or operator must also report the following information to the  
 1616 Agency:  
 1617

- 1618 a) Releases, fires, and explosions, as specified in Section 725.156(j);  
 1619  
 1620 b) Groundwater contamination and monitoring data, as specified in Section 725.193  
 1621 and 725.194;  
 1622  
 1623 c) Facility closure, as specified in Section 725.215; and  
 1624  
 1625 d) As otherwise required by Subparts AA, BB, and CC ~~of this Part~~.  
 1626

1627 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 1628

1629 **SUBPART F: GROUNDWATER MONITORING**  
 1630

1631 **Section 725.190 Applicability**  
 1632

- 1633 a) The owner or operator of a surface impoundment, landfill, or land treatment

1634 facility that is used to manage hazardous waste must implement a groundwater  
 1635 monitoring program capable of determining the facility's impact on the quality of  
 1636 groundwater in the uppermost aquifer underlying the facility, except as Section  
 1637 725.101 and subsection (c) of this Section provide otherwise.  
 1638

1639 b) Except as subsections (c) and (d) of this Section provide otherwise, the owner or  
 1640 operator must install, operate, and maintain a groundwater monitoring system that  
 1641 meets the requirements of Section 725.191 and must comply with Sections  
 1642 725.192 through 725.194. This groundwater monitoring program must be carried  
 1643 out during the active life of the facility and for disposal facilities during the post-  
 1644 closure care period as well.  
 1645

1646 c) All or part of the groundwater monitoring requirements of this Subpart F may be  
 1647 waived if the owner or operator can demonstrate that there is a low potential for  
 1648 migration of hazardous waste or hazardous waste constituents from the facility via  
 1649 the uppermost aquifer to water supply wells (domestic, industrial, or agricultural)  
 1650 or to surface water. This demonstration must be in writing and must be kept at  
 1651 the facility. This demonstration must be certified by a qualified geologist or  
 1652 geotechnical engineer and must establish the following:  
 1653

1654 1) The potential for migration of hazardous waste or hazardous waste  
 1655 constituents from the facility to the uppermost aquifer by an evaluation of  
 1656 the following information:  
 1657

1658 A) A water balance of precipitation, evapotranspiration, runoff, and  
 1659 infiltration; and  
 1660

1661 B) Unsaturated zone characteristics (i.e., geologic materials, physical  
 1662 properties, and depth to ground water); and  
 1663

1664 2) The potential for hazardous waste or hazardous waste constituents that  
 1665 enter the uppermost aquifer to migrate to a water supply well or surface  
 1666 water by an evaluation of the following information:  
 1667

1668 A) Saturated zone characteristics (i.e., geologic materials, physical  
 1669 properties, and rate of groundwater flow); and  
 1670

1671 B) The proximity of the facility to water supply wells or surface  
 1672 water.  
 1673

1674 d) If an owner or operator assumes (or knows) that groundwater monitoring of  
 1675 indicator parameters in accordance with Sections 725.191 and 725.192 would  
 1676 show statistically significant increases (or decreases in the case of pH) when

1677 evaluated pursuant to Section 725.193(b), it may install, operate, and maintain an  
1678 alternate groundwater monitoring system (other than the one described in Sections  
1679 725.191 and 725.192). If the owner or operator decides to use an alternate  
1680 groundwater monitoring system it must have done as follows:

- 1681
- 1682 1) The owner or operator must develop a specific plan, certified by a  
1683 qualified geologist or geotechnical engineer, that satisfies the requirements  
1684 of federal 40 CFR 265.93(d)(3) for an alternate groundwater monitoring  
1685 system. This plan is to be placed in the facility's operating record and  
1686 maintained until closure of the facility;
- 1687
- 1688 2) The owner or operator must have initiated the determinations specified in  
1689 federal 40 CFR 265.93(d)(4);
- 1690
- 1691 3) The owner or operator must prepare a written report in accordance with  
1692 Section 725.193(d)(5) and place it in the facility's operating record and  
1693 maintain until closure of the facility;
- 1694
- 1695 4) The owner or operator must continue to make the determinations specified  
1696 in Section 725.193(d)(4) on a quarterly basis until final closure of the  
1697 facility; and
- 1698
- 1699 5) The owner or operator must comply with the recordkeeping and reporting  
1700 requirements in Section 725.194(b).
- 1701
- 1702 e) The groundwater monitoring requirements of this Subpart F may be waived with  
1703 respect to any surface impoundment of which the following is true:
- 1704
- 1705 1) The impoundment is used to neutralize wastes that are hazardous solely  
1706 because they exhibit the corrosivity characteristic pursuant to 35 Ill. Adm.  
1707 Code 721.122 or which are listed as hazardous wastes in Subpart D of 35  
1708 Ill. Adm. Code 721 only for this reason; and
- 1709
- 1710 2) The impoundment contains no other hazardous wastes, if the owner or  
1711 operator can demonstrate that there is no potential for migration of  
1712 hazardous wastes from the impoundment. The demonstration must  
1713 establish, based upon consideration of the characteristics of the wastes and  
1714 the impoundment, that the corrosive wastes will be neutralized to the  
1715 extent that they no longer meet the corrosivity characteristic before they  
1716 can migrate out of the impoundment. The demonstration must be in  
1717 writing and must be certified by a qualified professional.
- 1718
- 1719 f) A permit or enforceable document can contain alternative requirements for

1720 groundwater monitoring that replace all or part of the requirements of this Subpart  
 1721 F applicable to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as  
 1722 provided pursuant to 35 Ill. Adm. Code 703.161, where the Board has determined  
 1723 by an adjusted standard granted pursuant to Section 28.1 of the Act [~~415 ILCS~~  
 1724 ~~5/28.1~~] and Subpart D of 35 Ill. Adm. Code 104 the following:

- 1725
- 1726 1) The regulated unit is situated among solid waste management units (or  
 1727 areas of concern), a release has occurred, and both the regulated unit and  
 1728 one or more solid waste management units (or areas of concern) are likely  
 1729 to have contributed to the release; and
- 1730
- 1731 2) It is not necessary to apply the groundwater monitoring requirements of  
 1732 this Subpart F because the alternative requirements will adequately protect  
 1733 human health and the environment. The alternative standards for the  
 1734 regulated unit must meet the requirements of 35 Ill. Adm. Code  
 1735 724.201(a).
- 1736

1737 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1738

1739 **Section 725.192 Sampling and Analysis**

- 1740
- 1741 a) The owner or operator must obtain and analyze samples from the installed  
 1742 groundwater monitoring system. The owner or operator must develop and follow  
 1743 a groundwater sampling and analysis plan. The owner or operator must keep this  
 1744 plan at the facility. The plan must include procedures and techniques for each of  
 1745 the following:
- 1746
- 1747 1) Sample collection;
- 1748
- 1749 2) Sample preservation and shipment;
- 1750
- 1751 3) Analytical procedures; and
- 1752
- 1753 4) Chain of custody control.
- 1754

1755 BOARD NOTE: See "Procedures Manual For Ground Water Monitoring At  
 1756 Solid Waste Disposal Facilities," USEPA document number EPA-530/SW-611,  
 1757 and "Methods for Chemical Analysis of Water and Wastes," USEPA document  
 1758 number EPA-600/4-79-020, incorporated by reference in 35 Ill. Adm. Code  
 1759 720.111(a), for discussions of sampling and analysis procedures.

- 1760
- 1761 b) The owner or operator must determine the concentration or value of the following  
 1762 parameters in groundwater samples in accordance with subsections (c) and (d) of

- 1763 this Section:  
1764  
1765 1) Parameters characterizing the suitability of the groundwater as a drinking  
1766 water supply, as specified in Appendix C to this Part.  
1767  
1768 2) The following parameters establishing groundwater quality:  
1769  
1770 A) Chloride,  
1771  
1772 B) Iron,  
1773  
1774 C) Manganese,  
1775  
1776 D) Phenols,  
1777  
1778 E) Sodium, and  
1779  
1780 F) Sulfate.  
1781  
1782 BOARD NOTE: These parameters are to be used as a basis for  
1783 comparison in the event a groundwater quality assessment is required  
1784 under Section 725.193(d).  
1785  
1786 3) The following parameters used as indicators of groundwater  
1787 contamination:  
1788  
1789 A) pH,  
1790  
1791 B) Specific Conductance,  
1792  
1793 C) Total Organic Carbon, and  
1794  
1795 D) Total Organic Halogen.  
1796  
1797 c) Establishing background concentrations.  
1798  
1799 1) For all monitoring wells, the owner or operator must establish initial  
1800 background concentrations or values of all parameters specified in  
1801 subsection (b) of this Section. The owner or operator must do this  
1802 quarterly for one year.  
1803  
1804 2) For each of the indicator parameters specified in subsection (b)(3) of this  
1805 Section, the owner or operator must obtain at least four replicate

1806 measurements for each sample and determine the initial background  
 1807 arithmetic mean and variance by pooling the replicate measurements for  
 1808 the respective parameter concentrations or values in samples obtained  
 1809 from upgradient wells during the first year.

1810  
 1811 d) After the first year, the owner or operator must sample all monitoring wells and  
 1812 analyze the samples with the following frequencies:

1813  
 1814 1) Samples collected to establish groundwater quality must be obtained and  
 1815 analyzed for the parameters specified in subsection (b)(2) of this Section  
 1816 at least annually.

1817  
 1818 2) Samples collected to indicate groundwater contamination must be  
 1819 obtained and analyzed for the parameters specified in subsection (b)(3) of  
 1820 this Section at least semi-annually.

1821  
 1822 e) The owner or operator must determine the elevation of the groundwater surface at  
 1823 each monitoring well each time a sample is obtained.

1824  
 1825 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 1826

1827 **Section 725.193 Preparation, Evaluation and Response**

1828  
 1829 a) ~~The~~ By no later than November 19, 1981, the owner or operator must ~~prepare~~ have  
 1830 prepared an outline of a groundwater quality assessment program. The outline  
 1831 must describe a more comprehensive groundwater monitoring program (than that  
 1832 described in Sections 725.191 and 725.192) capable of determining each of the  
 1833 following:

1834  
 1835 1) Whether hazardous waste or hazardous waste constituents have entered  
 1836 the groundwater;

1837  
 1838 2) The rate and extent of migration of hazardous waste or hazardous waste  
 1839 constituents in the groundwater; and

1840  
 1841 3) The concentrations of hazardous waste or hazardous waste constituents in  
 1842 the groundwater.

1843  
 1844 b) For each indicator parameter specified in Section 725.192(b)(3), the owner or  
 1845 operator must calculate the arithmetic mean and variance, based on at least four  
 1846 replicate measurements on each sample, for each well monitored in accordance  
 1847 with Section 725.192(d)(2) and compare these results with its initial background  
 1848 arithmetic mean. The comparison must consider individually each of the wells in

1849 the monitoring system and must use the Student's t-test at the 0.01 level of  
 1850 significance (see Appendix D) to determine statistically significant increases (and  
 1851 decreases, in the case of pH) over initial background.

1852  
 1853 c) Well comparisons.

1854  
 1855 1) If the comparisons for the upgradient wells made under subsection (b) of  
 1856 ~~this Section~~ show a significant increase (or pH decrease) the owner or  
 1857 operator must submit this information in accordance with Section  
 1858 725.194(a)(2)(B).

1859  
 1860 2) If the comparisons for downgradient wells made under subsection (b) of  
 1861 ~~this Section~~ show a significant increase (or pH decrease) the owner or  
 1862 operator must then immediately obtain additional groundwater samples for  
 1863 those downgradient wells where a significant difference was detected, split  
 1864 the samples in two and obtain analyses of all additional samples to  
 1865 determine whether the significant difference was a result of laboratory  
 1866 error.

1867  
 1868 d) Notice to the Agency.

1869  
 1870 1) If the analyses performed under subsection (c)(2) of ~~this Section~~ confirm  
 1871 the significant increase (or pH decrease) the owner or operator must  
 1872 provide written notice to the Agency – within seven days after the date of  
 1873 such confirmation – that the facility may be affecting groundwater quality.

1874  
 1875 2) Within 15 days after the notification under subsection (d)(1) of ~~this~~  
 1876 ~~Section~~, the owner or operator must develop a specific plan, based on the  
 1877 outline required under subsection (a) of ~~this Section~~ and certified by a  
 1878 qualified geologist or geotechnical engineer for a groundwater quality  
 1879 assessment at the facility. This plan must be placed in the facility  
 1880 operating record and be maintained until closure of the facility.

1881  
 1882 3) The plan to be submitted under Section 725.190(d)(1) or subsection (d)(2)  
 1883 of ~~this Section~~ must specify all of the following:

1884  
 1885 A) The number, location, and depth of wells;

1886  
 1887 B) Sampling and analytical methods for those hazardous wastes or  
 1888 hazardous waste constituents in the facility;

1889  
 1890 C) Evaluation procedures, including any use of previously gathered  
 1891 groundwater quality information; and

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 1934

- D) A schedule of implementation.
- 4) The owner or operator must implement the groundwater quality assessment plan that satisfies the requirements of subsection (d)(3) ~~of this Section~~ and, at a minimum, determine each of the following:
  - A) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the groundwater; and
  - B) The concentrations of the hazardous waste or hazardous waste constituents in the groundwater.
- 5) The owner or operator must make his first determination under subsection (d)(4) ~~of this Section~~, as soon as technically feasible, and prepare a report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.
- 6) If the owner or operator determines, based on the results of the first determination under subsection (d)(4) ~~of this Section~~, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in Section 725.192 and subsection (b) ~~of this Section~~. If the owner or operator reinstates the indicator evaluation program, he must so notify the Agency in the report submitted under subsection (d)(5) ~~of this Section~~.
- 7) If the owner or operator determines, based on the first determination under subsection (d)(4) ~~of this Section~~, that hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then the owner or operator must do either of the following:
  - A) It must continue to make the determinations required under subsection (d)(4) ~~of this Section~~ on a quarterly basis until final closure of the facility if the groundwater quality assessment plan was implemented prior to final closure of the facility; or
  - B) It may cease to make the determinations required under subsection (d)(4) ~~of this Section~~ if the groundwater quality assessment plan was implemented during the post-closure care period.
- e) Notwithstanding any other provision of this Subpart F, any groundwater quality

1935 assessment to satisfy the requirements of subsection (d)(4) of this Section that is  
1936 initiated prior to final closure of the facility must be completed and reported in  
1937 accordance with subsection (d)(5) of this Section.  
1938

- 1939 f) Unless the groundwater is monitored to satisfy the requirements of subsection  
1940 (d)(4) of this Section at least annually the owner or operator must evaluate the  
1941 data on groundwater surface elevations obtained under Section 725.192(e) to  
1942 determine whether the requirements under Section 725.191(a) for locating the  
1943 monitoring wells continues to be satisfied. If the evaluation shows that Section  
1944 725.191(a) is no longer satisfied, the owner or operator must immediately modify  
1945 the number, location, or depth of the monitoring wells to bring the groundwater  
1946 monitoring system into compliance with this requirement.  
1947

1948 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1949

1950 SUBPART G: CLOSURE AND POST-CLOSURE CARE

1951  
1952 **Section 725.210 Applicability**

1953  
1954 Except as Section 725.101 provides otherwise, the following requirements apply as indicated:  
1955

- 1956 a) Sections 725.211 through 725.215 (which concern closure) apply to the owners  
1957 and operators of all hazardous waste management facilities; and  
1958  
1959 b) Sections 725.216 through 725.220 (which concern post-closure care) apply to the  
1960 owners and operators of the following:  
1961  
1962 1) All hazardous waste disposal facilities;  
1963  
1964 2) Waste piles and surface impoundments from which the owner or operator  
1965 intends to remove the wastes at closure to the extent that these Sections  
1966 are made applicable to such facilities in Section 725.328 or 725.358;  
1967  
1968 3) Tank systems that are required pursuant to Section 725.297 to meet  
1969 requirements for landfills; or  
1970  
1971 4) Containment buildings that are required pursuant to Section 725.1102 to  
1972 meet the requirement for landfills.  
1973  
1974 c) Section 725.221 applies to owners and operators of units that are subject to the  
1975 requirements of 35 Ill. Adm. Code 703.161 and which are regulated under an  
1976 enforceable document (as established pursuant to 35 Ill. Adm. Code 703.161).  
1977

1978 d) A permit or enforceable document can contain alternative requirements that  
 1979 replace all or part of the closure and post-closure care requirements of this  
 1980 Subpart G (and the unit-specific standards in Section 725.211(c)) applying to a  
 1981 regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided in 35 Ill.  
 1982 Adm. Code 703.161, where the Board has determined by an adjusted standard  
 1983 granted pursuant to Section 28.1 of the Act [~~415 ILCS 5/28.1~~] and Subpart D of  
 1984 35 Ill. Adm. Code 104 the following:

- 1985
- 1986 1) The regulated unit is situated among solid waste management units (or  
 1987 areas of concern), a release has occurred, and both the regulated unit and  
 1988 one or more solid waste management units (or areas of concern) are likely  
 1989 to have contributed to the release; and
- 1990
- 1991 2) It is not necessary to apply the closure requirements of this Subpart G (and  
 1992 those referenced herein) because the alternative requirements will  
 1993 adequately protect human health and the environment, and will satisfy the  
 1994 closure performance standard of Section 725.211(a) and (b).

1995  
 1996 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1997

1998 **Section 725.212 Closure Plan; Amendment of Plan**

- 1999
- 2000 a) Written plan. Within six months after the effective date of the rule that first  
 2001 subjects a facility to provisions of this Section, the owner or operator of a  
 2002 hazardous waste management facility must have a written closure plan. Until  
 2003 final closure is completed and certified in accordance with Section 725.215, a  
 2004 copy of the most current plan must be furnished to the Agency upon request  
 2005 including request by mail. In addition, for facilities without approved plans, it  
 2006 must also be provided during site inspections on the day of inspection to any  
 2007 officer, employee, or representative of the Agency.
- 2008
- 2009 b) Content of plan. The plan must identify the steps necessary to perform partial or  
 2010 final closure of the facility at any point during its active life. The closure plan  
 2011 must include the following minimal information:
- 2012
- 2013 1) A description of how each hazardous waste management unit at the  
 2014 facility will be closed in accordance with Section 725.211;
- 2015
- 2016 2) A description of how final closure of the facility will be conducted in  
 2017 accordance with Section 725.211. The description must identify the  
 2018 maximum extent of the operation that will be unclosed during the active  
 2019 life of the facility;
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- 3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing, or disposing of all hazardous waste, and identification of and the types of off-site hazardous waste management units to be used, if applicable;
  - 4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard;
  - 5) A detailed description of other activities necessary during the partial and final closure periods to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and runoff and runoff control;
  - 6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.);
  - 7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Section 725.243 or 725.245 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans; and
  - 8) For a facility where alternative requirements are established at a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided under 35 Ill. Adm. Code 703.161, either the alternative requirements applying to the regulated unit or a reference to the enforceable document containing those alternative requirements.
- c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or

operator with an approved closure plan must submit a written request to the Agency to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Agency.

- 1) The owner or operator must amend the closure plan whenever any of the following occurs:
  - A) Changes in the operating plans or facility design affect the closure plan;
  - B) Whenever there is a change in the expected year of closure, if applicable;
  - C) In conducting partial or final closure activities, unexpected events require a modification of the closure plan; or
  - D) The owner or operator requests the establishment of alternative requirements, as provided under 35 Ill. Adm. Code 703.161, to a regulated unit under Section 725.190(f), 725.210(c), or 725.240(d).
- 2) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Section 725.410.
- 3) An owner or operator with an approved closure plan must submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Section 725.410. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must be approved according to the procedures in subsection (d)(4) of this Section.

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- 4) The Agency may request modifications to the plan under the conditions described in subsection (c)(1) ~~of this Section~~. An owner or operator with an approved closure plan must submit the modified plan within 60 days after the request from the Agency, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must be approved in accordance with the procedures in subsection (d)(4) ~~of this Section~~.
  
- d) Notification of partial closure and final closure.
  - 1) When notice is required.
    - A) The owner or operator must submit the closure plan to the Agency at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier.
    - B) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.
    - C) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.
    - D) An owner or operator with an approved closure plan must notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit.
    - E) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.
    - F) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which

the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

- 2) The date when the owner or operator "expects to begin closure" must be either of the following dates:
  - A) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator has taken and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Agency must approve an extension to this one-year limit; or
  - B) For units meeting the requirements of Section 725.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator demonstrates to the Agency that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements, the Agency must approve an extension to this one-year limit.
- 3) The owner or operator must submit the closure plan to the Agency no later than 15 days after occurrence of either of the following events:
  - A) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or
  - B) Issuance of a judicial decree or Board order to cease receiving hazardous wastes or to close the facility or unit.

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4) The Agency must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan no later than 30 days from the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments and the two notices may be combined.) The Agency must approve, modify, or disapprove the plan within 90 days after its receipt. If the Agency does not approve the plan, the Agency must provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Agency must approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved closure plan. The Agency must assure that the approved plan is consistent with Sections 725.211 through 725.215 and the applicable requirements of Sections 725.190 et seq., 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section precludes the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

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

**Section 725.213 Closure; Time Allowed for Closure**

a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section at a hazardous waste management unit or facility, or 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Agency must approve a longer period if the owner or operator demonstrates the following:

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- 1) The need to remain in operation by showing either of the following conditions exists:
    - A) The activities required to comply with this subsection (a) will, of necessity, take longer than 90 days to complete; or
    - B) All of the following conditions are true:
      - i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) ~~of this Section~~;
      - ii) There is a reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or facility within one year; and
      - iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and
  - 2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable interim status requirements.
- b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements of subsections (d) and (e) ~~of this Section~~ at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Agency must approve an extension to the closure period if the owner or operator demonstrates the following:
- 1) The need to remain in operation by showing either of the following conditions exists:
    - A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

- 2279 B) All of the following conditions are true:  
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2281 i) The hazardous waste management unit or facility has the  
2282 capacity to receive additional hazardous wastes, or the final  
2283 volume of non-hazardous wastes, if the owner or operator  
2284 complies with all the applicable requirements of  
2285 subsections (d) and (e) ~~of this Section~~; and  
2286  
2287 ii) There is a reasonable likelihood that the owner or operator  
2288 or another person will recommence operation of the  
2289 hazardous waste management unit or facility within one  
2290 year; and  
2291  
2292 iii) Closure of the hazardous waste management unit or facility  
2293 would be incompatible with continued operation of the site;  
2294 and  
2295  
2296 2) The owner or operator has taken and will continue to take all steps to  
2297 prevent threats to human health and the environment from the unclosed  
2298 but not operating hazardous waste management unit or facility, including  
2299 compliance with all applicable interim status requirements.  
2300  
2301 c) The demonstration referred to in subsections (a)(1) and (b)(1) ~~of this Section~~ must  
2302 be made as follows:  
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2304 1) The demonstration in subsection (a)(1) ~~of this Section~~ must be made at  
2305 least 30 days prior to the expiration of the 90-day period in subsection (a)  
2306 ~~of this Section~~; and  
2307  
2308 2) The demonstrations in subsection (b)(1) ~~of this Section~~ must be made at  
2309 least 30 days prior to the expiration of the 180-day period in subsection (b)  
2310 ~~of this Section~~, unless the owner or operator is otherwise subject to  
2311 deadlines in subsection (d) ~~of this Section~~.  
2312  
2313 d) Continued receipt of non-hazardous waste. The Agency must permit an owner or  
2314 operator to receive non-hazardous wastes in a landfill, land treatment unit or  
2315 surface impoundment unit after the final receipt of hazardous wastes at that unit if  
2316 the following are true:  
2317  
2318 1) The owner or operator submits an amended Part B application, or a new  
2319 Part B application if none was previously submitted, and demonstrates the  
2320 following:  
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- 2322 A) The unit has the existing design capacity as indicated on the Part A  
2323 application to receive non-hazardous wastes;  
2324
- 2325 B) There is a reasonable likelihood that the owner or operator or  
2326 another person will receive non-hazardous waste in the unit within  
2327 one year after the final receipt of hazardous wastes;  
2328
- 2329 C) The non-hazardous wastes will not be incompatible with any  
2330 remaining wastes in the unit, or with the facility design and  
2331 operating requirements of the unit or facility pursuant to this Part;  
2332
- 2333 D) Closure of the hazardous waste management unit would be  
2334 incompatible with continued operation of the unit or facility; and  
2335
- 2336 E) The owner or operator is operating and will continue to operate in  
2337 compliance with all applicable interim status requirements;  
2338
- 2339 2) The Part B application includes an amended waste analysis plan,  
2340 groundwater monitoring and response program, human exposure  
2341 assessment required pursuant to 35 Ill. Adm. Code 703.186, closure and  
2342 post-closure care plans, updated cost estimates, and demonstrations of  
2343 financial assurance for closure and post-closure care, as necessary and  
2344 appropriate, to reflect any changes due to the presence of hazardous  
2345 constituents in the non-hazardous wastes and changes in closure activities,  
2346 including the expected year of closure, if applicable pursuant to Section  
2347 725.212(b)(7), as a result of the receipt of non-hazardous wastes following  
2348 the final receipt of hazardous wastes;  
2349
- 2350 3) The Part B application is amended, as necessary and appropriate, to  
2351 account for the receipt of non-hazardous wastes following receipt of the  
2352 final volume of hazardous wastes; and  
2353
- 2354 4) The Part B application and the demonstrations referred to in subsections  
2355 (d)(1) and (d)(2) ~~of this Section~~ are submitted to the Agency no later than  
2356 180 days prior to the date on which the owner or operator of the facility  
2357 receives the known final volume of hazardous wastes or no later than 90  
2358 days after this Section applies to the facility, whichever is later.  
2359
- 2360 e) Surface impoundments. In addition to the requirements in subsection (d) ~~of this~~  
2361 ~~Section~~, an owner or operator of a hazardous waste surface impoundment that is  
2362 not in compliance with the liner and leachate collection system requirements in  
2363 Section 725.321(a) must receive non-hazardous wastes only as authorized by an  
2364 adjusted standard pursuant to this subsection (e).

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- 1) The petition for adjusted standard must include the following:
    - A) A plan for removing hazardous wastes; and
    - B) A contingent corrective measures plan.
  - 2) The removal plan must provide for the following:
    - A) Removing all hazardous liquids;
    - B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and
    - C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:
      - i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and
      - ii) That an extension will not pose a threat to human health and the environment.
  - 3) The following is required of contingent corrective measures plan:
    - A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.
    - B) It may be a portion of a corrective action plan previously submitted pursuant to Section 724.199.
    - C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.
    - D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.
  - 4) Release. A release is a statistically significant increase (or decrease in the

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case of pH) in hazardous constituents over background levels, detected in accordance with the requirements in Subpart F of this Part.

- 5) In the event of a release, the owner or operator of the unit must perform the following actions:
  - A) Within 35 days, the owner or operator must file with the Board a petition for adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to require the owner or operator to perform either of the following actions:
    - i) Begin to implement the corrective measures plan in less than one year; or
    - ii) Cease the receipt of wastes until the plan has been implemented.
    - iii) The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7) of this Section;
  - B) The owner or operator must implement the contingent corrective measures plan; and
  - C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.
- 6) Annual report. During the period of corrective action, the owner or operator must provide annual reports to the Agency that fulfill the following requirements:
  - A) They must describe the progress of the corrective action program;
  - B) They must compile all groundwater monitoring data; and
  - C) They must evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.
- 7) Required closure. The owner or operator must commence closure of the

2451 unit in accordance with the closure plan and the requirements of this Part  
2452 if the Board terminates the adjusted standard, or if the adjusted standard  
2453 terminates pursuant to its terms.

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2455 A) The Board will terminate the adjusted standard if the owner or  
2456 operator failed to implement corrective action measures in  
2457 accordance with the approved contingent corrective measures plan.

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2459 B) The Board will terminate the adjusted standard if the owner or  
2460 operator fails to make substantial progress in implementing the  
2461 corrective measures plan and achieving the facility's groundwater  
2462 protection standard, or background levels if the facility has not yet  
2463 established a groundwater protection standard.

2464  
2465 C) The adjusted standard will automatically terminate if the owner or  
2466 operator fails to implement the removal plan.

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2468 D) The adjusted standard will automatically terminate if the owner or  
2469 operator fails to timely file a required petition for adjusted  
2470 standard.

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2472 8) Adjusted standard procedures. The following procedures must be used in  
2473 granting, modifying or terminating an adjusted standard pursuant to this  
2474 subsection.

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2476 A) Except as otherwise provided, the owner or operator must follow  
2477 the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and  
2478 Subpart D of 35 Ill. Adm. Code 104 to petition the Board for an  
2479 adjusted standard.

2480  
2481 B) Initial justification. The Board will grant an adjusted standard,  
2482 pursuant to subsection (e)(1) of this Section, if the owner or  
2483 operator demonstrates that the removal plan and contingent  
2484 corrective measures plans meet the requirements of subsections  
2485 (e)(2) and (e)(3) of this Section.

2486  
2487 C) The Board will include the following conditions in granting an  
2488 adjusted standard pursuant to subsection (e)(1) of this Section:

2489  
2490 i) A plan for removing hazardous wastes;

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2492 ii) A requirement that the owner or operator remove hazardous  
2493 wastes in accordance with the plan;

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- 2495                   iii)    A contingent corrective measures plan;
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- 2497                   iv)    A requirement that, in the event of a release, the owner or
- 2498                                   operator must, within 35 days, file with the Board a petition
- 2499                                   for adjusted standard, implement the corrective measures
- 2500                                   plan, and file semi-annual reports with the Agency;
- 2501
- 2502                   v)    A condition that the adjusted standard will terminate if the
- 2503                                   owner or operator fails to implement the removal plan or
- 2504                                   timely file a required petition for adjusted standard; and
- 2505
- 2506                   vi)    A requirement that, in the event the adjusted standard is
- 2507                                   terminated, the owner or operator must commence closure
- 2508                                   of the unit in accordance with the requirements of the
- 2509                                   closure plan and this Part.
- 2510

2511                   D)    Justification in the event of a release. The Board will modify or

2512                                   terminate the adjusted standard pursuant to a petition filed pursuant

2513                                   to subsection (e)(5)(A) ~~of this Section~~, as provided in that

2514                                   subsection or in subsection (e)(7) ~~of this Section~~.

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2516                   9)    The owner or operator may file a revised closure plan within 15 days after

2517                                   an adjusted standard is terminated.

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2519                   (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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2521   **Section 725.217 Post-Closure Care and Use of Property**

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2523                   a)    Post-closure care.

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2525                   1)    Post-closure care for each hazardous waste management unit subject to the

2526                                   requirements of Sections 725.217 through 725.220 must begin after

2527                                   completion of closure of the unit and continue for 30 years after that date.

2528                                   It must consist of at least the following:

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2530                   A)    Monitoring and reporting in accordance with the requirements of

2531                                   Subparts F, K, L, M, and N ~~of this Part~~; and

2532

2533                   B)    Maintenance and monitoring of waste containment systems in

2534                                   accordance with the requirements of Subparts F, K, L, M, and N ~~of~~

2535                                   this Part.

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- 2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Board will, by an adjusted standard granted pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104 or by an order in some other appropriate type of proceeding (e.g., an enforcement proceeding), do the following:
    - A) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Board finds that the reduced period is sufficient to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results; characteristics of the hazardous waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or
    - B) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Board finds that the extended period is necessary to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).
  - 3) As provided by Section 725.218(i), the Board will utilize site-specific rulemaking to adjust the length of the post-closure care period.
- b) The Agency must require, at partial or final closure, continuation of any of the security requirements of Section 725.214 during part or all of the post-closure period when either of the following occurs:
- 1) Hazardous wastes may remain exposed after completion of partial or final closure; or
  - 2) Access by the public or domestic livestock may pose a hazard to human health.
- c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of any containment system or the function of the facility's monitoring systems, unless the Agency determines either of the following with respect to the disturbance:

- 2580 1) It is necessary to the proposed use of the property, and will not increase  
2581 the potential hazard to human health or the environment; or  
2582  
2583 2) It is necessary to reduce a threat to human health or the environment.  
2584  
2585 d) All post-closure care activities must be performed in accordance with the  
2586 provisions of the approved post-closure plan, as specified in Section 725.218.  
2587

2588 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
2589

2590 **Section 725.218 Post-Closure Care Plan; Amendment of Plan**  
2591

- 2592 a) Written Plan. The owner or operator of a hazardous waste disposal unit must have  
2593 a written post-closure care plan. An owner or operator of a surface impoundment  
2594 or waste pile that intends to remove all hazardous wastes at closure must prepare a  
2595 post-closure care plan and submit it to the Agency within 90 days after the date  
2596 that the owner or operator or Agency determines that the hazardous waste  
2597 management unit or facility must be closed as a landfill, subject to the  
2598 requirements of Sections 725.217 through 725.220.  
2599  
2600 b) Until final closure of the facility, a copy of the most current post-closure care plan  
2601 must be furnished to the Agency upon request, including request by mail. In  
2602 addition, for facilities without approved post-closure care plans, it must also be  
2603 provided during site inspections, on the day of inspection, to any officer,  
2604 employee, or representative of the Agency. After final closure has been certified,  
2605 the person or office specified in subsection (c)(3) must keep the approved post-  
2606 closure care plan during the post-closure care period.  
2607  
2608 c) For each hazardous waste management unit subject to the requirements of this  
2609 Section, the post-closure care plan must identify the activities that will be carried  
2610 on after closure of each disposal unit and the frequency of these activities and  
2611 include the following minimal information:  
2612  
2613 1) A description of the planned monitoring activities and frequencies at  
2614 which they will be performed to comply with Subparts F, K, L, M, and N  
2615 ~~of this Part~~ during the post-closure care period;  
2616  
2617 2) A description of the planned maintenance activities and frequencies at  
2618 which they will be performed to ensure the following:  
2619  
2620 A) The integrity of the cap and final cover or other containment  
2621 systems in accordance with the requirements of Subparts K, L, M,  
2622 and N ~~of this Part~~; and

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- B) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and N ~~of this Part~~;
  - 3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period;
  - 4) For a facility subject to Section 725.221, provisions that satisfy the requirements of Section 725.221(a)(1) and (a)(3); and
  - 5) For a facility where alternative requirements are established at a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided under 35 Ill. Adm. Code 703.161, either the alternative requirements that apply to the regulated unit, or a reference to the enforceable document containing those requirements.
- d) Amendment of plan. The owner or operator may amend the post-closure care plan at any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure care plan must submit a written request to the Agency to authorize a change to the approved plan. The written request must include a copy of the amended post-closure care plan for approval by the Agency.
- 1) The owner or operator must amend the post-closure care plan whenever the following occur:
    - A) Changes in operating plans or facility design affect the post-closure care plan; or
    - B) Events occur during the active life of the facility, including partial and final closures, that affect the post-closure care plan; and
    - C) The owner or operator requests the establishment of alternative requirements to a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d).
  - 2) The owner or operator must amend the post-closure care plan at least 60 days prior to the proposed changes in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the post-closure care plan.
  - 3) An owner or operator with an approved post-closure care plan must

2666 submit the modified plan to the Agency at least 60 days prior to the  
 2667 proposed change in facility design or operation, or no more than 60 days  
 2668 after an unexpected event has occurred that has affected the post-closure  
 2669 care plan. If an owner or operator of a surface impoundment or a waste  
 2670 pile that intended to remove all hazardous wastes at closure in accordance  
 2671 with Section 725.328(b) or 725.358(a) is required to close as a landfill in  
 2672 accordance with Section 725.410, the owner or operator must submit a  
 2673 post-closure care plan within 90 days after the determination by the owner  
 2674 or operator or Agency that the unit must be closed as a landfill. If the  
 2675 amendment to the post-closure care plan is a Class 2 or 3 modification  
 2676 according to the criteria in 35 Ill. Adm. Code 703.280, the modification to  
 2677 the plan must be approved according to the procedures in subsection (f) of  
 2678 this Section.

2679  
 2680 4) The Agency may request modifications to the plan under the conditions  
 2681 described in subsection (d)(1) of this Section. An owner or operator with  
 2682 an approved post-closure care plan must submit the modified plan no later  
 2683 than 60 days after the request from the Agency. If the amendment to the  
 2684 plan is considered a Class 2 or 3 modification according to the criteria in  
 2685 35 Ill. Adm. Code 703.280 the modifications to the post-closure care plan  
 2686 must be approved in accordance with the procedures in subsection (f) of  
 2687 this Section. If the Agency determines that an owner or operator of a  
 2688 surface impoundment or waste pile that intended to remove all hazardous  
 2689 wastes at closure must close the facility as a landfill, the owner or operator  
 2690 must submit a post-closure care plan for approval to the Agency within 90  
 2691 days after the determination.

2692  
 2693 e) The owner or operator of a facility with hazardous waste management units  
 2694 subject to these requirements must submit the post-closure care plan to the  
 2695 Agency at least 180 days before the date the owner or operator expects to begin  
 2696 partial or final closure of the first hazardous waste disposal unit. The date when  
 2697 the owner or operator "expects to begin closure" of the first hazardous waste  
 2698 disposal unit must be either within 30 days after the date on which the hazardous  
 2699 waste management unit receives the known final volume of hazardous waste or, if  
 2700 there is a reasonable possibility that the hazardous waste management unit will  
 2701 receive additional hazardous wastes, no later than one year after the date on which  
 2702 the unit received the most recent volume of hazardous wastes. The owner or  
 2703 operator must submit the closure plan to the Agency no later than 15 days after  
 2704 either of the following:

2705  
 2706 1) Termination of interim status (except when a permit is issued to the  
 2707 facility simultaneously with termination of interim status); or  
 2708

- 2709                    2)      Issuance of a judicial decree or Board order to cease receiving wastes or  
2710                    close.
- 2711
- 2712                    f)      Procedures.
- 2713
- 2714                    1)      Except as provided in subsection (f)(2) of this Section, the Agency must  
2715                    provide the owner or operator and the public through a newspaper notice  
2716                    the opportunity to submit written comments on the post-closure care plan  
2717                    and request modifications to the plan, no later than 30 days after the date  
2718                    of the notice. The Agency may also, in response to a request or at its own  
2719                    discretion, hold a public hearing whenever such a hearing might clarify  
2720                    one or more issues concerning the post-closure care plan. The Agency  
2721                    must give public notice of the hearing at least 30 days before it occurs.  
2722                    (Public notice of the hearing may be given at the same time as notice of  
2723                    the opportunity for written public comments and the two notices may be  
2724                    combined.) The Agency must approve, modify, or disapprove the plan  
2725                    within 90 days after its receipt. If the Agency determines not to approve  
2726                    the plan, the Agency must provide the owner or operator with a detailed  
2727                    statement of reasons for the refusal and the owner or operator must modify  
2728                    the plan or submit a new plan for approval within 30 days after receiving  
2729                    such written statements. The Agency must approve or modify this plan in  
2730                    writing within 60 days. If the Agency modifies the plan, this modified  
2731                    plan becomes the approved post-closure care plan. Any final Agency  
2732                    determination must ensure that the approved post-closure care plan is  
2733                    consistent with Sections 725.217 through 725.220. A copy of this  
2734                    modified plan with a detailed statement of reasons for the modifications  
2735                    must be mailed to the owner or operator.
- 2736
- 2737                    2)      The Agency must not provide notice or the opportunity for public  
2738                    comment if, in a prior proceeding, the Board has ordered the modifications  
2739                    to the plan.
- 2740
- 2741                    g)      The post-closure care plan and length of the post-closure care period may be  
2742                    modified at any time prior to the end of the post-closure care period in either of  
2743                    the following two ways:
- 2744
- 2745                    1)      The owner or operator or any member of the public may petition to extend  
2746                    or reduce the post-closure care period applicable to a hazardous waste  
2747                    management unit or facility based on cause, or alter the requirements of  
2748                    the post-closure care period based on cause.
- 2749
- 2750                    A)      The petition must include evidence demonstrating either of the  
2751                    following:

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- i) The secure nature of the hazardous waste management unit or facility makes the post-closure care requirements unnecessary or supports reduction of the post-closure care period specified in the current post-closure care plan (e.g., leachate or groundwater monitoring results; characteristics of the waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the facility is secure), or
  - ii) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).
- B) These petitions must be considered only when they present new and relevant information not previously considered.
- i) Except as provided in subsection (g)(1)(B)(ii), whenever the Agency is considering a petition, it must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days after the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure care plan. The Agency must give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments and the two notices may be combined.) After considering the comments, the Agency must issue a final determination, based upon the criteria set forth in subsection (g)(1) ~~of this Section~~.
  - ii) The Agency must not provide notice or the opportunity for public comment if, in a prior proceeding, the Board has ordered the modifications to the plan.
- C) If the Agency denies the petition, it must send the petitioner a brief written response giving a reason for the denial.

- 2795                    2)     The Agency must tentatively decide to modify the post-closure care plan if  
 2796                    the Agency determines that it is necessary to prevent threats to human  
 2797                    health and the environment. The Agency may propose to extend or reduce  
 2798                    the post-closure care period applicable to a hazardous waste management  
 2799                    unit or facility based on cause or alter the requirements of the post-closure  
 2800                    care period based on cause.
- 2801
- 2802                    A)     The Agency must provide the owner or operator and the affected  
 2803                    public, through a newspaper notice, the opportunity to submit  
 2804                    written comments within 30 days after the date of the notice and  
 2805                    the opportunity for a public hearing as in subsection (g)(1)(B) ~~of this~~  
 2806                    ~~this Section~~. After considering the comments, the Agency must  
 2807                    issue a final determination.
- 2808
- 2809                    B)     The Agency must base its final determination upon the same  
 2810                    criteria as required for petitions under subsection (g)(1)(A) ~~of this~~  
 2811                    ~~Section~~. A modification of the post-closure care plan may include,  
 2812                    where appropriate, the temporary suspension rather than permanent  
 2813                    deletion of one or more post-closure care requirements. At the end  
 2814                    of the specified period of suspension, the Agency would then  
 2815                    determine whether the requirements should be permanently  
 2816                    discontinued or reinstated to prevent threats to human health and  
 2817                    the environment.
- 2818
- 2819                    h)     The Agency procedures described in Sections 725.212 through 725.219 are in the  
 2820                    nature of permit amendments. Amendment of refusal to amend the plan is a  
 2821                    permit denial for purposes of appeal pursuant to 35 Ill. Adm. Code 105. The  
 2822                    Agency must not amend permits in such a manner so that the permit would not  
 2823                    conform with Board regulations.
- 2824
- 2825                    i)     If any person seeks a closure or post-closure care plan that would not conform  
 2826                    with Board regulations, such person must file a site-specific rulemaking petition  
 2827                    pursuant to 35 Ill. Adm. Code 102 or a variance petition pursuant to Sections 35  
 2828                    through 38 of the Act ~~{415 ILCS 5/35 through 38}~~ and Subpart B of 35 Ill. Adm.  
 2829                    Code 104.

2830                    (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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2833     **Section 725.219 Post-Closure Notices**

2834

2835     Within 90 days after closure is completed, the owner or operator of a disposal facility must  
 2836     submit to the County Recorder and to the Agency a survey plat indicating the location and  
 2837     dimensions of landfill cells or other disposal areas with respect to permanently surveyed

2838 benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat  
 2839 filed with the County Recorder must contain a note, prominently displayed, that states the  
 2840 owner's or operator's obligation to restrict disturbance of the site as specified in Section  
 2841 725.217(c). In addition, the owner or operator must submit to the Agency and to the County  
 2842 Recorder a record of the type, location, and quantity of hazardous waste disposed of within each  
 2843 cell or area of the facility. The owner or operator must identify the type, location, and quantity  
 2844 of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of  
 2845 before these regulations were promulgated, the owner or operator must identify the type,  
 2846 location, and quantity of the wastes to the best of his knowledge and in accordance with any  
 2847 records the owner or operator has kept.

- 2848
- 2849 a) No later than 60 days after certification of closure of each hazardous waste  
 2850 disposal unit, the owner or operator must submit to the County Recorder, to any  
 2851 local zoning authority, or any authority with jurisdiction over local land use, and  
 2852 to the Agency, a record of the type, location, and quantity of hazardous wastes  
 2853 disposed of within each cell or other disposal unit of the facility. For hazardous  
 2854 wastes disposed of before January 12, 1981, the owner or operator must identify  
 2855 the type, location, and quantity of the hazardous wastes to the best of the owner or  
 2856 operator's knowledge and in accordance with any records the owner or operator  
 2857 has kept.  
 2858
  - 2859 b) Within 60 days after certification of closure of the first hazardous waste disposal  
 2860 unit and within 60 days after certification of closure of the last hazardous waste  
 2861 disposal unit, the owner or operator must do the following:  
 2862
    - 2863 1) Record, in accordance with Illinois law, a notation on the deed to the  
 2864 facility property, or on some other instrument that is normally examined  
 2865 during title search, that will in perpetuity notify any potential purchaser of  
 2866 the property of the following:  
 2867
      - 2868 A) The land has been used to manage hazardous wastes;
      - 2869 B) Its use is restricted pursuant to Subpart G of this Part; and
      - 2870 C) The survey plat and record of the type, location, and quantity of  
 2871 hazardous wastes disposed of within each cell or other hazardous  
 2872 waste disposal unit of the facility required by Sections 725.216 and  
 2873 725.219(a) have been filed with the County Recorder, any local  
 2874 zoning authority, or any authority with jurisdiction over local land  
 2875 use, and with the Agency; and
    - 2876 2) Submit to the Agency a certification signed by the owner or operator that  
 2877 the owner or operator has recorded the notation specified in subsection  
 2878  
 2879  
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2881 (b)(1) of this Section, together with a copy of the document in which the  
2882 notation has been placed.  
2883

2884 c) If the owner or operator or any subsequent owner of the land upon which a  
2885 hazardous waste disposal unit was located wishes to remove hazardous wastes  
2886 and hazardous waste residues; the liner, if any; and all contaminated structures,  
2887 equipment, and soils, such person must request a modification to the approved  
2888 post-closure plan in accordance with the requirements of Section 725.218(g). The  
2889 owner or operator must demonstrate that the removal of hazardous wastes will  
2890 satisfy the criteria of Section 725.217(c). By removing hazardous waste, the  
2891 owner or operator may become a generator of hazardous waste and must manage  
2892 it in accordance with all applicable requirements of 35 Ill. Adm. Code 702, 703,  
2893 720 through 728, and 738. If the owner or operator is granted approval to conduct  
2894 the removal activities, the owner or operator may request that the Agency approve  
2895 either of the following:

- 2896
- 2897 1) Removal of the notation on the deed to the facility property or other  
2898 instrument normally examined during title search, or
  - 2899 2) Addition of a notation to the deed or instrument indicating the removal of  
2900 the hazardous waste.  
2901

2902  
2903 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
2904

2905 **Section 725.221 Alternative Post-Closure Care Requirements**  
2906

2907 a) An owner or operator that is subject to the requirement to obtain a post-closure  
2908 care permit under Subpart B of 35 Ill. Adm. Code 703 but which obtains an  
2909 enforceable document in lieu of a post-closure permit, as provided in 35 Ill. Adm.  
2910 Code 703.161, must comply with the following requirements:

- 2911 1) The requirements to submit information about the facility in 35 Ill. Adm.  
2912 Code 703.214;
- 2913 2) The requirements for facility-wide corrective action in 35 Ill. Adm. Code  
2914 724.201; and
- 2915 3) The requirements of 35 Ill. Adm. Code 724.191 through 724.200.  
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2918 b) Implementation of Alternative Requirements.  
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- 2920 1) Public notice, public comments, and public hearing.  
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- A) In establishing alternative requirements in an enforceable document in lieu of a permit under this Section, the Board will assure a meaningful opportunity for public involvement that, at a minimum, includes public notice and opportunity for public comment, as provided under the relevant provisions of the Act:
    - i) For a site-specific rulemaking, in Sections 27 and 28 of the Act ~~{415 ILCS 5/27 and 28}~~.
    - ii) For an adjusted standard, in Section 28.1 of the Act ~~{415 ILCS 5/28.1}~~.
    - iii) For a variance, in Sections 35 through 38 of the Act ~~{415 ILCS 5/35 through 38}~~.
    - iv) For an order issued pursuant to Section 33(a) of the Act ~~{415 ILCS 5/33(a)}~~, in Sections 31, 32, and 33 of the Act ~~{415 ILCS 5/31, 32, and 33}~~.
  
  - B) When an owner or operator submits a plan to the Agency pursuant to an appropriate statutory or regulatory authority, the Agency must provide public notice and an opportunity for public hearing on the plan according to the requirements of Subparts D and E of 35 Ill. Adm. Code 705 as follows:
    - i) When the Agency becomes involved in remedial action at the facility under regulations or in an enforcement action;
    - ii) On the proposed preferred remedy and on the assumptions on which the remedy is based, especially those relating to land use and site characterization; and
    - iii) At the time of a proposed decision that remedial action is complete at the facility.
  
  - C) The requirements of subsection (b)(1)(B) ~~of this Section~~ must be met before the Agency may consider that the facility owner or operator has met the requirements of 35 Ill. Adm. Code 703.161, unless the facility qualifies for a modification to these public participation requirements under either of subsection (b)(2) or (b)(3) ~~of this Section~~.
- 2) If the Agency determines that even a short delay in the implementation of

2967 a remedy would adversely affect human health or the environment, the  
2968 Agency may delay compliance with the requirements of subsection  
2969 (b)(1)(B) of this Section and immediately implement the remedy.  
2970 However, the Agency must assure involvement of the public at the earliest  
2971 opportunity and, in all cases, upon making the decision that additional  
2972 remedial action is not needed at the facility.

- 2973
- 2974 3) The Agency may allow a remediation initiated prior to August 6, 1999 to  
2975 substitute for corrective action required under a post-closure care permit  
2976 even if the public involvement requirements of subsection (b)(1)(B) of this  
2977 Section have not been met, so long as the Agency assures that notice and  
2978 comment on the decision that no further remediation is necessary to  
2979 adequately protect human health and the environment takes place at the  
2980 earliest reasonable opportunity after August 6, 1999.

2981  
2982 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

2983  
2984 **SUBPART H: FINANCIAL REQUIREMENTS**

2985  
2986 **Section 725.240 Applicability**

- 2987
- 2988 a) The requirements of Sections 725.242, 725.243, and 725.247 through 725.250  
2989 apply to owners and operators of all hazardous waste facilities, except as provided  
2990 otherwise in this Section or in Section 725.101.
- 2991
- 2992 b) The requirements of Sections 725.244 and 725.245 apply only to owners and  
2993 operators of any of the following:
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- 2995 1) Disposal facilities;
- 2996
- 2997 2) Tank systems that are required pursuant to Section 725.297 to meet the  
2998 requirements for landfills; or
- 2999
- 3000 3) Containment buildings that are required pursuant to Section 725.1102 to  
3001 meet the requirements for landfills.
- 3002
- 3003 c) States and the federal government are exempt from the requirements of this  
3004 Subpart H.
- 3005
- 3006 d) A permit or enforceable document can contain alternative requirements that  
3007 replace all or part of the financial assurance requirements of this Subpart H  
3008 applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the  
3009 Board or Agency has done the following:

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- 1) The Board, by an adjusted standard granted pursuant to Section 28.1 of the Act [~~415 ILCS 5/28.1~~] and Subpart D of 35 Ill. Adm. Code 104, has established alternative requirements for the regulated unit established pursuant to Section 725.190(f) or Section 724.210(d); and
  - 2) The Board has determined that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

3021 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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3023 **Section 725.241 Definitions of Terms as Used in this Subpart H**

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- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 725.212.
  - b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b), and (c).
  - c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b), and (c).
  - d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
  - e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.
  - f) The following terms are used in the specifications for the financial tests for closure, post-closure care, 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.

3047 "Assets" mean all existing and all probable future economic benefits  
3048 obtained or controlled by a particular entity.

3049  
3050 "Current assets" mean cash or other assets or resources commonly  
3051 identified as those that are reasonably expected to be realized in cash or  
3052 sold or consumed during the normal operating cycle of the business.

3053  
3054 "Current liabilities" means obligations whose liquidation is reasonably  
3055 expected to require the use of existing resources properly classifiable as  
3056 current assets or the creation of other current liabilities.

3057  
3058 "Current plugging and abandonment cost estimate" means the most recent  
3059 of the estimates prepared in accordance with 35 Ill. Adm. Code  
3060 704.212(a), (b), and (c).

3061  
3062 "Independently audited" refers to an audit performed by an independent  
3063 certified public accountant in accordance with generally accepted auditing  
3064 standards.

3065  
3066 "Liabilities" means probable future sacrifices of economic benefits arising  
3067 from present obligations to transfer assets or provide services to other  
3068 entities in the future as a result of past transactions or events.

3069  
3070 "Net working capital" means current assets minus current liabilities.

3071  
3072 "Net worth" means total assets minus total liabilities and is equivalent to  
3073 owner's equity.

3074  
3075 "Tangible net worth" means the tangible assets that remain after deducting  
3076 liabilities; such assets would not include intangibles, such as goodwill and  
3077 rights to patents or royalties.

3078  
3079 g) In the liability insurance requirements the terms "bodily injury" and "property  
3080 damage" have the meanings given below. The Board intends the meanings of  
3081 other terms used in the liability insurance requirements to be consistent with their  
3082 common meanings within the insurance industry. The definitions given below of  
3083 several of the terms are intended to assist in the understanding of these regulations  
3084 and are not intended to limit their meanings in a way that conflicts with general  
3085 insurance industry usage.

3086  
3087 "Accidental occurrence" means an accident, including continuous or  
3088 repeated exposure to conditions, that results in bodily injury or property  
3089 damage neither expected nor intended from the standpoint of the insured.

3090  
3091 "Bodily injury" means bodily injury, sickness, or disease sustained by a  
3092 person, including death resulting from any of these at any time. However,  
3093 this term does not include those liabilities that, consistent with standard  
3094 insurance industry practices, are excluded from coverage in liability  
3095 insurance policies for bodily injury.

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BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This term is used in the definition of "pollution incident:".

"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.

"Nonsudden accidental occurrence" means an occurrence that takes place over time and involves continuous or repeated exposure.

"Pollutant"~~"Pollutants"~~ means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of "pollution incident:".

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in "environmental damage:". The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident:".

"Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence:".

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of "property damage:".

"Property damage" means as follows:

Either of the following:

3139 Physical injury to, destruction of, or contamination of  
3140 tangible property, including all resulting loss of use of that  
3141 property; or

3142  
3143 Loss of use of tangible property that is not physically  
3144 injured, destroyed, or contaminated, but has been  
3145 evacuated, withdrawn from use, or rendered inaccessible  
3146 because of a "pollution incident:".

3147  
3148 This term does not include those liabilities that, consistent with  
3149 standard insurance industry practices, are excluded from coverage  
3150 in liability insurance policies for property damage.

3151  
3152 BOARD NOTE: Derived from the Insurance Services Office, Inc.  
3153 definition of this term.

3154  
3155 "Sudden accidental occurrence" means an occurrence that is not  
3156 continuous or repeated in nature.

3157  
3158 h) "Substantial business relationship" means the extent of a business relationship  
3159 necessary under applicable state law to make a guarantee contract issued incident  
3160 to that relationship valid and enforceable. A "substantial business relationship"  
3161 must arise from a pattern of recent or ongoing business transactions, in addition to  
3162 the guarantee itself, such that the Agency can reasonably determine that a  
3163 substantial business relationship currently exists between the guarantor and the  
3164 owner or operator that is adequate consideration to support the obligation of the  
3165 guarantee relating to any liability towards a third-party. "Applicable state law,"  
3166 as used in this subsection (h), means the laws of the State of Illinois and those of  
3167 any sister state that govern the guarantee and the adequacy of the consideration.

3168  
3169 BOARD NOTE: Derived from 40 CFR 265.141(h) (2017)(2014) and the  
3170 discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also  
3171 independently defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). Any  
3172 Agency determination that a substantial business relationship exists is subject to  
3173 Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

3174  
3175 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

3176  
3177 **Section 725.242 Cost Estimate for Closure**

3178  
3179 a) The owner or operator must have a detailed written estimate, in current dollars, of  
3180 the cost of closing the facility in accordance with the requirements in Sections  
3181 725.211 through 725.215 and applicable closure requirements of Sections

3182 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and  
 3183 725.1102.

- 3184
- 3185 1) The estimate must equal the cost of final closure at the point in the  
 3186 facility's active life when the extent and manner of its operation would  
 3187 make closure the most expensive, as indicated by its closure plan (see  
 3188 Section 725.212(b)); and
- 3189
- 3190 2) The closure cost estimate must be based on the costs to the owner or  
 3191 operator of hiring a third party to close the facility. A third party is a party  
 3192 that is neither a parent nor a subsidiary of the owner or operator. (See  
 3193 definition of "parent corporation" in Section 725.241(d).) The owner or  
 3194 operator may use costs for on-site disposal if the owner or operator  
 3195 demonstrates that on-site disposal capacity will exist at all times over the  
 3196 life of the facility.
- 3197
- 3198 3) The closure cost estimate must not incorporate any salvage value that may  
 3199 be realized by the sale of hazardous wastes, or non-hazardous wastes if  
 3200 permitted by the Agency pursuant to Section 725.213(d), facility  
 3201 structures or equipment, land or other facility assets at the time of partial  
 3202 or final closure.
- 3203
- 3204 4) The owner or operator must not incorporate a zero cost for hazardous  
 3205 waste, or non-hazardous waste if permitted by the Agency pursuant to  
 3206 Section 725.213(d), that may have economic value.
- 3207
- 3208 b) During the active life of the facility, the owner or operator must adjust the closure  
 3209 cost estimate for inflation within 60 days prior to the anniversary date of the  
 3210 establishment of the financial instruments used to comply with Section 725.243.  
 3211 For an owner or operator using the financial test or corporate guarantee, the  
 3212 closure cost estimate must be updated for inflation within 30 days after the close  
 3213 of the firm's fiscal year and before submission of updated information to the  
 3214 Agency, as specified in Section 725.243(e)(5). The adjustment may be made by  
 3215 recalculating the closure cost estimate in current dollars, or by using an inflation  
 3216 factor derived from the most recent annual Implicit Price Deflator for Gross  
 3217 National Product (Deflator), as published by the U.S. Department of Commerce in  
 3218 its Survey of Current Business, as specified in subsections (b)(1) and (b)(2) of this  
 3219 Section. The inflation factor is the result of dividing the latest published annual  
 3220 Deflator by the Deflator for the previous year.
- 3221
- 3222 1) The first adjustment is made by multiplying the closure cost estimate by  
 3223 the inflation factor. The result is the adjusted closure cost estimate.
- 3224

- 3225 2) Subsequent adjustments are made by multiplying the latest adjusted  
3226 closure cost estimate by the latest inflation factor.  
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3228 BOARD NOTE: The table of Deflators is available as Table 1.1.9., "Implicit  
3229 Price Deflators for Gross Domestic Product," in the National Income and Product  
3230 Account Tables, published by U.S. Department of Commerce, Bureau of  
3231 Economic Analysis, National Economic Accounts, available on-line at the  
3232 following web address:

3233 [www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr](http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr)  
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- 3236 c) During the active life of the facility, the owner or operator must revise the closure  
3237 cost estimate no later than 30 days after a revision has been made to the closure  
3238 plan that increases the cost of closure. If the owner or operator has an approved  
3239 closure plan, the closure cost estimate must be revised no later than 30 days after  
3240 the Agency has approved the request to modify the closure plan if the change in  
3241 the closure plan increases the cost of closure. The revised closure cost estimate  
3242 must be adjusted for inflation as specified in subsection (b) of this Section.  
3243

- 3244 d) The owner or operator must keep the following at the facility during the operating  
3245 life of the facility: the latest closure cost estimate prepared in accordance with  
3246 subsections (a) and (c) of this Section, and, when this estimate has been adjusted  
3247 in accordance with subsection (b) of this Section, the latest adjusted closure cost  
3248 estimate.  
3249

3250 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
3251

3252 **Section 725.243 Financial Assurance for Closure**  
3253

3254 An owner or operator of each facility must establish financial assurance for closure of the  
3255 facility. The owner or operator must choose from the options specified in subsections (a)  
3256 through (e) of this Section.  
3257

- 3258 a) Closure trust fund.  
3259

- 3260 1) An owner or operator may satisfy the requirements of this Section by  
3261 establishing a closure trust fund that conforms to the requirements of this  
3262 subsection and submitting an original, signed duplicate of the trust  
3263 agreement to the Agency. The trustee must be an entity that has the  
3264 authority to act as a trustee and whose trust operations are regulated and  
3265 examined by a federal or State agency.  
3266

- 3267 2) The wording of the trust agreement must be as specified in 35 Ill. Adm.

3268 Code 724.251, and the trust agreement must be accompanied by a formal  
 3269 certification of acknowledgment, as specified in 35 Ill. Adm. Code  
 3270 724.251. Schedule A of the trust agreement must be updated within 60  
 3271 days after a change in the amount of the current closure cost estimate  
 3272 covered by the agreement.  
 3273

3274 3) Payments into the trust fund must be made annually by the owner or  
 3275 operator ~~over the 20 years beginning May 19, 1981, or over the remaining~~  
 3276 ~~operating life of the facility as estimated in the closure plan, whichever~~  
 3277 ~~period is shorter~~; this period is hereafter referred to as the "pay-in period".  
 3278 The payments into the closure trust fund must be made as follows:  
 3279

3280 A) ~~The first payment must be made before May 19, 1981, except as~~  
 3281 ~~provided in subsection (a)(5) of this Section.~~ The first payment  
 3282 must be at least equal to the current closure cost estimate, except as  
 3283 provided in subsection (f) ~~of this Section~~, divided by the number of  
 3284 years in the pay-in period.  
 3285

3286 B) Subsequent payments must be made no later than 30 days after  
 3287 each anniversary date of the first payment. The amount of each  
 3288 subsequent payment must be determined by this formula:  
 3289

$$\text{Next Payment} = \frac{CE - CV}{Y}$$

3290 Where:

- 3291 CE = the current closure cost estimate
- 3292 CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

3293 4) The owner or operator may accelerate payments into the trust fund or may  
 3294 deposit the full amount of the current closure cost estimate at the time the  
 3295 fund is established. However, the owner or operator must maintain the  
 3296 value of the fund at no less than the value that the fund would have if  
 3297 annual payments were made as specified in subsection (a)(3) ~~of this~~  
 3298 ~~Section~~.  
 3299

3300 5) If the owner or operator establishes a closure trust fund after having used  
 3301 one or more alternate mechanisms specified in this Section, the owner or  
 3302 operator's first payment must be in at least the amount that the fund would  
 3303 contain if the trust fund were established initially and annual payments  
 3304 made as specified in subsection (a)(3) ~~of this Section~~.  
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- 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.
  - 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
  - 8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.
  - 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
  - 10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (h) of this Section, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator a detailed written statement of reasons.

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- 11) The Agency must agree to termination of the trust when either of the following occurs:
  - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
  - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.
- b) Surety bond guaranteeing payment into a closure trust fund.
  - 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.
  - 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
  - 3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) of this Section, except as follows:
    - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
    - B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
      - i) Payments into the trust fund, as specified in subsection (a);

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- ii) Updating of Schedule A of the trust agreement (see 35 Ill. Adm. Code 724.251(a)) to show current closure cost estimates;
  - iii) Annual valuations, as required by the trust agreement; and
  - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will:
- A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
  - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the Board or a court of competent jurisdiction; or
  - C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- 6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.
- 7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Agency.
- 8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the

3436 Agency. Cancellation may not occur, however, during the 120 days  
3437 beginning on the date of receipt of the notice of cancellation by both the  
3438 owner or operator and the Agency, as evidenced by the return receipts.  
3439

- 3440 9) The owner or operator may cancel the bond if the Agency has given prior  
3441 written consent based on its receipt of evidence of alternate financial  
3442 assurance, as specified in this Section.  
3443

3444 c) Closure letter of credit.  
3445

- 3446 1) An owner or operator may satisfy the requirements of this Section by  
3447 obtaining an irrevocable standby letter of credit that conforms to the  
3448 requirements of this subsection (c) and submitting the letter to the Agency.  
3449 The issuing institution must be an entity that has the authority to issue  
3450 letters of credit and whose letter-of-credit operations are regulated and  
3451 examined by a federal or State agency.  
3452

- 3453 2) The wording of the letter of credit must be as specified in 35 Ill. Adm.  
3454 Code 724.251.  
3455

- 3456 3) An owner or operator that uses a letter of credit to satisfy the requirements  
3457 of this Section must also establish a standby trust fund. Under the terms  
3458 of the letter of credit, all amounts paid pursuant to a draft by the Agency  
3459 must be deposited by the issuing institution directly into the standby trust  
3460 fund in accordance with instructions from the Agency. This standby trust  
3461 fund must meet the requirements of the trust fund specified in subsection  
3462 (a) of this Section, except as follows:  
3463

3464 A) An original, signed duplicate of the trust agreement must be  
3465 submitted to the Agency with the letter of credit; and  
3466

3467 B) Unless the standby trust fund is funded pursuant to the  
3468 requirements of this Section, the following are not required by  
3469 these regulations:  
3470

3471 i) Payments into the trust fund, as specified in subsection (a)  
3472 of this Section;  
3473

3474 ii) Updating of Schedule A of the trust agreement (as specified  
3475 in 35 Ill. Adm. Code 724.251) to show current closure cost  
3476 estimates;  
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3478 iii) Annual valuations, as required by the trust agreement; and

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- iv) Notices of nonpayment as required by the trust agreement.
- 4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.
- 5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
- 6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.
- 7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.
- 8) Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Agency may draw on the letter of credit.
- 9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay

3522 the drawing if the issuing institution grants an extension of the term of the  
3523 credit. During the last 30 days of any such extension the Agency must  
3524 draw on the letter of credit if the owner or operator has failed to provide  
3525 alternate financial assurance, as specified in this Section, and obtain  
3526 written approval of such assurance from the Agency.  
3527

3528 10) The Agency must return the letter of credit to the issuing institution for  
3529 termination when one of the following occurs:  
3530

3531 A) An owner or operator substitutes alternate financial assurance, as  
3532 specified in this Section; or  
3533

3534 B) The Agency releases the owner or operator from the requirements  
3535 of this Section in accordance with subsection (h) ~~of this Section~~.  
3536

3537 d) Closure insurance.  
3538

3539 1) An owner or operator may satisfy the requirements of this Section by  
3540 obtaining closure insurance that conforms to the requirements of this  
3541 subsection and submitting a certificate of such insurance to the Agency.  
3542 At a minimum, the insurer must be licensed to transact the business of  
3543 insurance, or eligible to provide insurance as an excess or surplus lines  
3544 insurer, in one or more States.  
3545

3546 2) The wording of the certificate of insurance must be as specified in 35 Ill.  
3547 Adm. Code 724.251.  
3548

3549 3) The closure insurance policy must be issued for a face amount at least  
3550 equal to the current closure cost estimate, except as provided in subsection  
3551 (f) ~~of this Section~~. The term "face amount" means the total amount the  
3552 insurer is obligated to pay under the policy. Actual payments by the  
3553 insurer will not change the face amount, although the insurer's future  
3554 liability will be lowered by the amount of the payments.  
3555

3556 4) The closure insurance policy must guarantee that funds will be available to  
3557 close the facility whenever final closure occurs. The policy must also  
3558 guarantee that, once final closure begins, the insurer will be responsible  
3559 for paying out funds, up to an amount equal to the face amount of the  
3560 policy, upon the direction of the Agency to such party or parties as the  
3561 Agency specifies.  
3562

3563 5) After beginning partial or final closure, an owner or operator or any other  
3564 person authorized to conduct closure may request reimbursement for

3565 closure expenditures by submitting itemized bills to the Agency. The  
 3566 owner or operator may request reimbursement for partial closure only if  
 3567 the remaining value of the policy is sufficient to cover the maximum costs  
 3568 of closing the facility over its remaining operating life. Within 60 days  
 3569 after receiving bills for closure activities, the Agency must instruct the  
 3570 insurer to make reimbursement in such amounts as the Agency specifies in  
 3571 writing if the Agency determines that the partial or final closure  
 3572 expenditures are in accordance with the approved closure plan or  
 3573 otherwise justified. If the Agency determines that the maximum cost of  
 3574 closure over the remaining life of the facility will be significantly greater  
 3575 than the face amount of the policy, it must withhold reimbursement of  
 3576 such amounts as it deems prudent until it determines, in accordance with  
 3577 subsection (h) of this Section, that the owner or operator is no longer  
 3578 required to maintain financial assurance for final closure of the particular  
 3579 facility. If the Agency does not instruct the insurer to make such  
 3580 reimbursements, the Agency must provide the owner or operator with a  
 3581 detailed written statement of reasons.  
 3582

3583 6) The owner or operator must maintain the policy in full force and effect  
 3584 until the Agency consents to termination of the policy by the owner or  
 3585 operator as specified in subsection (d)(10) of this Section. Failure to pay  
 3586 the premium, without substitution of alternate financial assurance as  
 3587 specified in this Section, will constitute a significant violation of these  
 3588 regulations, warranting such remedy as the Board may impose pursuant to  
 3589 the Environmental Protection Act. Such violation will be deemed to begin  
 3590 upon receipt by the Agency of a notice of future cancellation, termination,  
 3591 or failure to renew due to nonpayment of the premium, rather than upon  
 3592 the date of expiration.  
 3593

3594 7) Each policy must contain a provision allowing assignment of the policy to  
 3595 a successor owner or operator. Such assignment may be conditional upon  
 3596 consent of the insurer, provided such consent is not unreasonably refused.  
 3597

3598 8) The policy must provide that the insurer may not cancel, terminate, or fail  
 3599 to renew the policy except for failure to pay the premium. The automatic  
 3600 renewal of the policy must, at a minimum, provide the insured with the  
 3601 option of renewal at the face amount of the expiring policy. If there is a  
 3602 failure to pay the premium, the insurer may elect to cancel, terminate, or  
 3603 fail to renew the policy by sending notice by certified mail to the owner or  
 3604 operator and the Agency. Cancellation, termination, or failure to renew  
 3605 may not occur, however, during the 120 days beginning with the date of  
 3606 receipt of the notice by both the Agency and the owner or operator, as  
 3607 evidenced by the return receipts. Cancellation, termination, or failure to

- 3608 renew may not occur and the policy will remain in full force and effect in  
3609 the event that, on or before the date of expiration, one of the following  
3610 occurs:
- 3611
  - 3612 A) The Agency deems the facility abandoned;
  - 3613
  - 3614 B) Interim status is terminated or revoked;
  - 3615
  - 3616 C) Closure is ordered by the Board or a court of competent  
3617 jurisdiction;
  - 3618
  - 3619 D) The owner or operator is named as debtor in a voluntary or  
3620 involuntary proceeding under 11 USC (Bankruptcy); or
  - 3621
  - 3622 E) The premium due is paid.
  - 3623
  - 3624 9) Whenever the current closure cost estimate increases to an amount greater  
3625 than the face amount of the policy, the owner or operator, within 60 days  
3626 after the increase, must either cause the face amount to be increased to an  
3627 amount at least equal to the current closure cost estimate and submit  
3628 evidence of such increase to the Agency, or obtain other financial  
3629 assurance as specified in this Section to cover the increase. Whenever the  
3630 current closure cost estimate decreases, the face amount may be reduced to  
3631 the amount of the current closure cost estimate following written approval  
3632 by the Agency.
  - 3633
  - 3634 10) The Agency must give written consent to the owner or operator that the  
3635 owner or operator may terminate the insurance policy when either of the  
3636 following occurs:
  - 3637
  - 3638 A) An owner or operator substitutes alternate financial assurance, as  
3639 specified in this Section; or
  - 3640
  - 3641 B) The Agency releases the owner or operator from the requirements  
3642 of this Section in accordance with subsection (h) ~~of this Section~~.
  - 3643
  - 3644 e) Financial test and corporate guarantee for closure.
  - 3645
  - 3646 1) An owner or operator may satisfy the requirements of this Section by  
3647 demonstrating that the owner or operator passes a financial test as  
3648 specified in this subsection. To pass this test the owner or operator must  
3649 meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) ~~of this Section~~.
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- A) The owner or operator must have all of the following:
    - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
    - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
    - iii) Tangible net worth of at least \$10 million; and
    - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
  
  - B) The owner or operator must have all of the following:
    - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
    - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
    - iii) Tangible net worth of at least \$10 million; and
    - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
  
  - 2) The phrase "current closure and post-closure cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrase "current plugging and abandonment cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be

- 3694 shown in subsections 1 through 4 of the letter from the owner's or  
 3695 operator's chief financial officer (see 35 Ill. Adm. Code 704.240).  
 3696  
 3697 3) To demonstrate that the owner or operator meets this test, the owner or  
 3698 operator must submit each of the following items to the Agency:  
 3699  
 3700 A) A letter signed by the owner's or operator's chief financial officer  
 3701 and worded as specified in 35 Ill. Adm. Code 724.251;  
 3702  
 3703 B) A copy of the independent certified public accountant's report on  
 3704 examination of the owner's or operator's financial statements for  
 3705 the latest completed fiscal year; and  
 3706  
 3707 C) A special report from the owner's or operator's independent  
 3708 certified public accountant to the owner or operator stating the  
 3709 following:  
 3710  
 3711 i) That the accountant has compared the data that the letter  
 3712 from the chief financial officer specifies as having been  
 3713 derived from the independently audited, year-end financial  
 3714 statements for the latest fiscal year with the amounts in  
 3715 such financial statements; and  
 3716  
 3717 ii) In connection with that procedure, that no matters came to  
 3718 the accountant's attention which caused the accountant to  
 3719 believe that the specified data should be adjusted.  
 3720  
 3721 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal  
 3722 provision relating to an extension of the time to file the proofs of financial  
 3723 assurance required by this subsection (e) granted by USEPA. This  
 3724 statement maintains structural consistency with the corresponding federal  
 3725 regulations.  
 3726  
 3727 5) After the initial submission of items specified in subsection (e)(3) of this  
 3728 Section, the owner or operator must send updated information to the  
 3729 Agency within 90 days after the close of each succeeding fiscal year. This  
 3730 information must consist of all three items specified in subsection (e)(3) of  
 3731 this Section.  
 3732  
 3733 6) If the owner or operator no longer meets the requirements of subsection  
 3734 (e)(1) of this Section, the owner or operator must send notice to the  
 3735 Agency of intent to establish alternate financial assurance as specified in  
 3736 this Section. The notice must be sent by certified mail within 90 days

- 3737 after the end of the fiscal year for which the year-end financial data show  
 3738 that the owner or operator no longer meets the requirements. The owner  
 3739 or operator must provide the alternate financial assurance within 120 days  
 3740 after the end of such fiscal year.
- 3741
- 3742 7) The Agency may, based on a reasonable belief that the owner or operator  
 3743 may no longer meet the requirements of subsection (e)(1) ~~of this Section~~,  
 3744 require reports of financial condition at any time from the owner or  
 3745 operator in addition to those specified in subsection (e)(3) ~~of this Section~~.  
 3746 If the Agency finds, on the basis of such reports or other information, that  
 3747 the owner or operator no longer meets the requirements of subsection  
 3748 (e)(1) ~~of this Section~~, the owner or operator must provide alternate  
 3749 financial assurance as specified in this Section within 30 days after  
 3750 notification of such a finding.
- 3751
- 3752 8) The Agency may disallow use of this test on the basis of qualifications in  
 3753 the opinion expressed by the independent certified public accountant in the  
 3754 accountant's report on examination of the owner's or operator's financial  
 3755 statements (see subsection (e)(3)(B) ~~of this Section~~). An adverse opinion  
 3756 or a disclaimer of opinion will be cause for disallowance. The Agency  
 3757 must evaluate other qualifications on an individual basis. The owner or  
 3758 operator must provide alternate financial assurance as specified in this  
 3759 Section within 30 days after notification of the disallowance.
- 3760
- 3761 9) The owner or operator is no longer required to submit the items specified  
 3762 in subsection (e)(3) ~~of this Section~~ when either of the following occurs:
- 3763
- 3764 A) An owner or operator substitutes alternate financial assurance, as  
 3765 specified in this Section; or
- 3766
- 3767 B) The Agency releases the owner or operator from the requirements  
 3768 of this Section in accordance with subsection (h) ~~of this Section~~.
- 3769
- 3770 10) An owner or operator may meet the requirements of this Section by  
 3771 obtaining a written guarantee, hereafter referred to as "corporate  
 3772 guarantee". The guarantor must be the direct or higher-tier parent  
 3773 corporation of the owner or operator, a firm whose parent corporation is  
 3774 also the parent corporation of the owner or operator, or a firm with a  
 3775 "substantial business relationship" with the owner or operator. The  
 3776 guarantor must meet the requirements for owners or operators in  
 3777 subsections (e)(1) through (e)(8) ~~of this Section~~, and must comply with the  
 3778 terms of the corporate guarantee. The wording of the corporate guarantee  
 3779 must be identical to the wording specified in 35 Ill. Adm. Code 724.251.

3780 The corporate guarantee must accompany the items sent to the Agency as  
 3781 specified in subsection (e)(3) ~~of this Section~~. One of these items must be  
 3782 the letter from the guarantor's chief financial officer. If the guarantor's  
 3783 parent corporation is also the parent corporation of the owner or operator,  
 3784 the letter must describe the value received in consideration of the  
 3785 guarantee. If the guarantor is a firm with a "substantial business  
 3786 relationship" with the owner or operator, this letter must describe this  
 3787 substantial business relationship" and the value received in consideration  
 3788 of the guarantee. The terms of the corporate guarantee must provide the  
 3789 following:

3791 A) That, if the owner or operator fails to perform final closure of a  
 3792 facility covered by the corporate guarantee in accordance with the  
 3793 closure plan and other interim status requirements whenever  
 3794 required to do so, the guarantor will do so or establish a trust fund  
 3795 as specified in subsection (a) ~~of this Section~~, in the name of the  
 3796 owner or operator.

3798 B) That the corporate guarantee will remain in force unless the  
 3799 guarantor sends notice of cancellation by certified mail to the  
 3800 owner or operator and to the Agency. Cancellation may not occur,  
 3801 however, during the 120 days beginning on the date of receipt of  
 3802 the notice of cancellation by both the owner or operator and the  
 3803 Agency, as evidenced by the return receipts.

3805 C) That, if the owner or operator fails to provide alternate financial  
 3806 assurance as specified in this Section and obtain the written  
 3807 approval of such alternate assurance from the Agency within 90  
 3808 days after receipt by both the owner or operator and the Agency of  
 3809 a notice of cancellation of the corporate guarantee from the  
 3810 guarantor, the guarantor will provide such alternate financial  
 3811 assurance in the name of the owner or operator.

3812 f) Use of multiple financial mechanisms. An owner or operator may satisfy the  
 3813 requirements of this Section by establishing more than one financial mechanism  
 3814 per facility. These mechanisms are limited to trust funds, surety bonds, letters of  
 3815 credit, and insurance. The mechanisms must be as specified in subsections (a)  
 3816 through (d) ~~of this Section~~, respectively, except that it is the combination of  
 3817 mechanisms, rather than the single mechanism, that must provide financial  
 3818 assurance for an amount at least equal to the current closure cost estimate. If an  
 3819 owner or operator uses a trust fund in combination with a surety bond or a letter  
 3820 of credit, the owner or operator may use the trust fund as the standby trust fund  
 3821 for the other mechanisms. A single standby trust fund may be established for two  
 3822

3823 or more mechanisms. The Agency may use any or all of the mechanisms to  
 3824 provide for closure of the facility.

3825  
 3826 g) Use of a financial mechanism for multiple facilities. An owner or operator may  
 3827 use a financial assurance mechanism specified in this Section to meet the  
 3828 requirements of this Section for more than one facility. Evidence of financial  
 3829 assurance submitted to the Agency must include a list showing, for each facility,  
 3830 the USEPA identification number, name, address, and the amount of funds for  
 3831 closure assured by the mechanism. The amount of funds available through the  
 3832 mechanism must be no less than the sum of funds that would be available if a  
 3833 separate mechanism had been established and maintained for each facility. The  
 3834 amount of funds available to the Agency must be sufficient to close all of the  
 3835 owner or operator's facilities. In directing funds available through the mechanism  
 3836 for closure of any of the facilities covered by the mechanism, the Agency may  
 3837 direct only the amount of funds designated for that facility, unless the owner or  
 3838 operator agrees to the use of additional funds available under the mechanism.  
 3839

3840 h) Release of the owner or operator from the requirements of this Section. Within  
 3841 60 days after receiving certifications from the owner or operator and a qualified  
 3842 Professional Engineer that final closure has been completed in accordance with  
 3843 the approved closure plan, the Agency must notify the owner or operator in  
 3844 writing that the owner or operator is no longer required by this Section to  
 3845 maintain financial assurance for closure of the facility, unless the Agency  
 3846 determines that closure has not been in accordance with the approved closure  
 3847 plan. The Agency must provide the owner or operator a detailed written  
 3848 statement of any such determination that closure has not been in accordance with  
 3849 the approved closure plan.  
 3850

3851 i) Appeal. The following Agency actions are deemed to be permit modifications or  
 3852 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code  
 3853 702.184(e)(3)):  
 3854

- 3855 1) An increase in, or a refusal to decrease the amount of, a bond, letter of  
 3856 credit, or insurance; or
- 3857 2) Requiring alternate assurance upon a finding that an owner or operator or  
 3858 parent corporation no longer meets a financial test.  
 3859

3860  
 3861 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 3862

3863 **Section 725.244 Cost Estimate for Post-Closure Care**

3864  
 3865 a) The owner or operator of a hazardous waste disposal unit must have a detailed

3866 written estimate, in current dollars, of the annual cost of post-closure monitoring  
 3867 and maintenance of the facility in accordance with the applicable post-closure  
 3868 regulations in Section 725.217 through 725.220, 725.328, 725.358, 725.380, and  
 3869 725.410.

3870  
 3871 1) The post-closure cost estimate must be based on the costs to the owner or  
 3872 operator of hiring a third party to conduct post-closure care activities. A  
 3873 third party is a party that is neither a parent nor a subsidiary of the owner  
 3874 or operator. (See the definition of "parent corporation" in Section  
 3875 725.241(d).)

3876  
 3877 2) The post-closure cost estimate is calculated by multiplying the annual  
 3878 post-closure cost estimate by the number of years of post-closure care  
 3879 required under Section 725.217.

3880  
 3881 b) During the active life of the facility, the owner or operator must adjust the post-  
 3882 closure cost estimate for inflation within 30 days after each anniversary of the  
 3883 date on which the first post-closure cost estimate was prepared. The adjustment  
 3884 must be made 60 days prior to the anniversary date of the establishment of the  
 3885 financial instruments used to comply with Section 725.245. For an owner or  
 3886 operator using the financial test or corporate guarantee, the closure cost estimate  
 3887 must be updated for inflation within 30 days after the close of the firm's fiscal  
 3888 year and before submission of updated information to the Agency as specified in  
 3889 Section 725.245(e)(5). The adjustment may be made by recalculating the post-  
 3890 closure cost estimate in current dollars, or by using an inflation factor derived  
 3891 from the annual Implicit Price Deflator for Gross National Product as published  
 3892 by the U.S. Department of Commerce in its Survey of Current Business as  
 3893 specified in subsections (b)(1) and (b)(2) of this Section. The inflation factor is  
 3894 the result of dividing the latest published annual Deflator by the Deflator for the  
 3895 previous year.

3896  
 3897 1) The first adjustment is made by multiplying the post-closure estimate by  
 3898 the inflation factor. The result is the adjusted post-closure cost estimate.

3899  
 3900 2) Subsequent adjustments are made by multiplying the latest adjusted post-  
 3901 closure cost estimate by the latest inflation factor.

3902  
 3903 c) During the active life of the facility, the owner or operator must revise the post-  
 3904 closure cost estimate whenever a change in the post-closure plan no later than 30  
 3905 days after a revision to the post-closure plan that increases the cost of post-closure  
 3906 care. If the owner or operator has an approved post-closure plan, the post-closure  
 3907 cost estimate must be revised no later than 30 days after the Agency has approved  
 3908 the request to modify the plan if the change in the post-closure plan increases the

3909 cost of post-closure care. The revised post-closure cost estimate must be adjusted  
3910 for inflation as specified in subsection (b) of this Section.

3911  
3912 d) The owner or operator must keep the following at the facility during the operating  
3913 life of the facility: the latest post-closure cost estimate prepared in accordance  
3914 with subsections (a) and (c) of this Section and, when this estimate has been  
3915 adjusted in accordance with subsection (b) of this Section, the latest adjusted post-  
3916 closure cost estimate.

3917  
3918 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
3919

3920 **Section 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance**

3921  
3922 An owner or operator of a facility with a hazardous waste disposal unit must establish financial  
3923 assurance for post-closure care of the disposal units. The owner or operator must choose from  
3924 the following options:

3925  
3926 a) Post-closure trust fund.

3927  
3928 1) An owner or operator may satisfy the requirements of this Section by  
3929 establishing a post-closure trust fund that conforms to the requirements of  
3930 this subsection and submitting an original, signed duplicate of the trust  
3931 agreement to the Agency. The trustee must be an entity that has the  
3932 authority to act as a trustee and whose trust operations are regulated and  
3933 examined by a federal or State agency.

3934  
3935 2) The wording of the trust agreement must be as specified in 35 Ill. Adm.  
3936 Code 724.251 and the trust agreement must be accompanied by a formal  
3937 certification of acknowledgment (as specified in 35 Ill. Adm. Code  
3938 724.251). Schedule A of the trust agreement must be updated within 60  
3939 days after a change in the amount of the current post-closure cost estimate  
3940 covered by the agreement.

3941  
3942 3) Payments into the trust fund must be made annually by the owner or  
3943 operator over the 20 years beginning May 19, 1981, or over the remaining  
3944 operating life of the facility as estimated in the closure plan, whichever  
3945 period is shorter; this period is hereafter referred to as the "pay-in period".  
3946 The payments into the post-closure trust fund must be made as follows:

3947  
3948 A) The first payment must have been made before May 19, 1981,  
3949 except as provided in subsection (a)(5) of this Section. The first  
3950 payment must be at least equal to the current post-closure cost  
3951 estimate, except as provided in subsection (f) of this Section,

divided by the number of years in the pay-in period.

- B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \frac{CE - CV}{Y}$$

Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current post-closure cost estimate at the time the fund is established. 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 subsection (a)(3) of this Section.
- 5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) of this Section.
- 6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.
- 7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.

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- 8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.
  - 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
  - 10) During the period of post-closure care, the Agency must approve a release of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.
  - 11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.
  - 12) The Agency must agree to termination of a trust when either of the following occurs:
    - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
    - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.
  - b) Surety bond guaranteeing payment into a post-closure trust fund.
    - 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

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BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

- 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
- 3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) of this Section, except as follows:
  - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
  - B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
    - i) Payments into the trust fund, as specified in subsection (a) of this Section;
    - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current post-closure cost estimates;
    - iii) Annual valuations, as required by the trust agreement; and
    - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will perform the following acts:
  - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or
  - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a court of competent jurisdiction; or

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- C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
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- 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
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- 6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) of this Section.
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- 7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
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- 8) Under the terms of the bond, the surety may cancel the bond by sending 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.
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- 9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance as specified in this Section.
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- c) Post-closure letter of credit.
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- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

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- 2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
  - 3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) ~~of this Section~~, except as follows:
    - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
    - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
      - i) Payments into the trust fund, as specified in subsection (a) ~~of this Section~~;
      - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.151) to show current post-closure cost estimates;
      - iii) Annual valuations, as required by the trust agreement; and
      - iv) Notices of nonpayment, as required by the trust agreement.
  - 4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.
  - 5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

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- 6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) of this Section.
  - 7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
  - 8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.
  - 9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other interim status requirements, the Agency may draw on the letter of credit.
  - 10) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days after any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
  - 11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:
    - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section.~~

d) Post-closure insurance.

- 1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.
- 2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.
- 3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure estimate, except as provided in subsection (f) ~~of this Section.~~ The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
- 4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency, to such party or parties as the Agency specifies.
- 5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing, if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.
- 6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or

- 4249 operator, as specified in subsection (d)(11) ~~of this Section~~. Failure to pay  
4250 the premium, without substitution of alternate financial assurance, as  
4251 specified in this Section, will constitute a significant violation of these  
4252 regulations, warranting such remedy as the Board may impose pursuant to  
4253 the Environmental Protection Act. Such violation will be deemed to begin  
4254 upon receipt by the Agency of a notice of future cancellation, termination,  
4255 or failure to renew due to nonpayment of the premium, rather than upon  
4256 the date of expiration.  
4257
- 4258 7) Each policy must contain a provision allowing assignment of the policy to  
4259 a successor owner or operator. Such assignment may be conditional upon  
4260 consent of the insurer, provided such consent is not unreasonably refused.  
4261
- 4262 8) The policy must provide that the insurer may not cancel, terminate, or fail  
4263 to renew the policy except for failure to pay the premium. The automatic  
4264 renewal of the policy must, at a minimum, provide the insured with the  
4265 option of renewal at the face amount of the expiring policy. If there is a  
4266 failure to pay the premium, the insurer may elect to cancel, terminate, or  
4267 fail to renew the policy by sending notice by certified mail to the owner or  
4268 operator and the Agency. Cancellation, termination, or failure to renew  
4269 may not occur, however, during the 120 days beginning with the date of  
4270 receipt of the notice by both the Agency and the owner or operator, as  
4271 evidenced by the return receipts. Cancellation, termination, or failure to  
4272 renew may not occur, and the policy will remain in full force and effect in  
4273 the event that, on or before the date of expiration, one of the following  
4274 occurs:
- 4275
- 4276 A) The Agency deems the facility abandoned;
- 4277
- 4278 B) Interim status is terminated or revoked;
- 4279
- 4280 C) Closure is ordered by the Board or a court of competent  
4281 jurisdiction;
- 4282
- 4283 D) The owner or operator is named as debtor in a voluntary or  
4284 involuntary proceeding under 11 USC (Bankruptcy); or
- 4285
- 4286 E) The premium due is paid.
- 4287
- 4288 9) Whenever the current post-closure cost estimate increases to an amount  
4289 greater than the face amount of the policy during the operating life of the  
4290 facility, the owner or operator, within 60 days after the increase, must  
4291 either cause the face amount to be increased to an amount at least equal to

4292 the current post-closure cost estimate and submit evidence of such  
 4293 increase to the Agency, or obtain other financial assurance, as specified in  
 4294 this Section, to cover the increase. Whenever the current post-closure cost  
 4295 estimate decreases during the operating life of the facility, the face amount  
 4296 may be reduced to the amount of the current post-closure cost estimate  
 4297 following written approval by the Agency.

4298  
 4299 10) Commencing on the date that liability to make payments pursuant to the  
 4300 policy accrues, the insurer must thereafter annually increase the face  
 4301 amount of the policy. Such increase must be equivalent to the face  
 4302 amount of the policy, less any payments made, multiplied by an amount  
 4303 equivalent to 85 percent of the most recent investment rate or of the  
 4304 equivalent coupon-issue yield announced by the U.S. Treasury for 26-  
 4305 week Treasury securities.

4306  
 4307 11) The Agency must give written consent to the owner or operator that the  
 4308 owner or operator may terminate the insurance policy when either of the  
 4309 following occurs:

4310  
 4311 A) An owner or operator substitutes alternate financial assurance, as  
 4312 specified in this Section; or

4313  
 4314 B) The Agency releases the owner or operator from the requirements  
 4315 of this Section in accordance with subsection (h) ~~of this Section.~~

4316  
 4317 e) Financial test and corporate guarantee for post-closure care.

4318  
 4319 1) An owner or operator may satisfy the requirements of this Section by  
 4320 demonstrating that the owner or operator passes a financial test, as  
 4321 specified in this subsection (e). To pass this test the owner or operator  
 4322 must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) ~~of this~~  
 4323 ~~Section:~~

4324  
 4325 A) The owner or operator must have each of the following:

4326  
 4327 i) Two of the following three ratios: a ratio of total liabilities  
 4328 to net worth less than 2.0; a ratio of the sum of net income  
 4329 plus depreciation, depletion and amortization to total  
 4330 liabilities greater than 0.1; and a ratio of current assets to  
 4331 current liabilities greater than 1.5;

4332  
 4333 ii) Net working capital and tangible net worth each at least six  
 4334 times the sum of the current closure and post-closure cost

- 4335 estimates and the current plugging and abandonment cost  
 4336 estimates;
- 4337  
 4338 iii) Tangible net worth of at least \$10 million; and  
 4339  
 4340 iv) Assets in the United States amounting to at least 90 percent  
 4341 of total assets or at least six times the sum of the current  
 4342 closure and post-closure cost estimates and the plugging  
 4343 and abandonment cost estimates.  
 4344
- 4345 B) The owner or operator must have each of the following:  
 4346  
 4347 i) A current rating for its most recent bond issuance of AAA,  
 4348 AA, A, or BBB, as issued by Standard and Poor's, or Aaa,  
 4349 Aa, A, or Baa, as issued by Moody's;  
 4350  
 4351 ii) Tangible net worth at least six times the sum of the current  
 4352 closure and post-closure cost estimates and the current  
 4353 plugging and abandonment cost estimates;  
 4354  
 4355 iii) Tangible net worth of at least \$10 million; and  
 4356  
 4357 iv) Assets located in the United States amounting to at least 90  
 4358 percent of its total assets or at least six times the sum of the  
 4359 current closure and post-closure cost estimates and the  
 4360 current plugging and abandonment cost estimates.  
 4361
- 4362 2) The phrase "current closure and post-closure cost estimates," as used in  
 4363 subsection (e)(1) of this Section, refers to the cost estimates required to be  
 4364 shown in subsections 1 through 4 of the letter from the owner's or  
 4365 operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The  
 4366 phrases "current plugging and abandonment cost estimates," as used in  
 4367 subsection (e)(1) of this Section, refers to the cost estimates required to be  
 4368 shown in subsections 1 through 4 of the letter from the owner's or  
 4369 operator's chief financial officer (see 35 Ill. Adm. Code 704.240).  
 4370
- 4371 3) To demonstrate that it meets this test, the owner or operator must submit  
 4372 each of the following items to the Agency:  
 4373  
 4374 A) A letter signed by the owner's or operator's chief financial officer  
 4375 and worded as specified in 35 Ill. Adm. Code 724.251;  
 4376  
 4377 B) A copy of the independent certified public accountant's report on

4378 examination of the owner's or operator's financial statements for  
4379 the latest completed fiscal year; and

4380 C) A special report from the owner's or operator's independent  
4381 certified public accountant to the owner or operator stating both of  
4382 the following:  
4383

4384 i) That the accountant has compared the data that the letter  
4385 from the chief financial officer specifies as having been  
4386 derived from the independently audited, year-end financial  
4387 statements for the latest fiscal year with the amounts in  
4388 such financial statements; and

4389 ii) In connection with that procedure, that no matters came to  
4390 the accountant's attention that caused the accountant to  
4391 believe that the specified data should be adjusted.  
4392

4393 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal  
4394 provision relating to an extension of the time to file the proofs of financial  
4395 assurance required by this subsection (e) granted by USEPA. This  
4396 statement maintains structural consistency with the corresponding federal  
4397 regulations.  
4398

4399 5) After the initial submission of items specified in subsection (e)(3) of this  
4400 Section, the owner or operator must send updated information to the  
4401 Agency within 90 days after the close of each succeeding fiscal year. This  
4402 information must consist of all three items specified in subsection (e)(3) of  
4403 this Section.  
4404

4405 6) If the owner or operator no longer meets the requirements of subsection  
4406 (e)(1) of this Section, the owner or operator must send notice to the  
4407 Agency of intent to establish alternate financial assurance, as specified in  
4408 this Section. The notice must be sent by certified mail within 90 days  
4409 after the end of the fiscal year for which the year-end financial data show  
4410 that the owner or operator no longer meets the requirements. The owner  
4411 or operator must provide the alternate financial assurance within 120 days  
4412 after the end of such fiscal year.  
4413

4414 7) The Agency may, based on a reasonable belief that the owner or operator  
4415 may no longer meet the requirements of subsection (e)(1) of this Section,  
4416 require reports of financial condition at any time from the owner or  
4417 operator in addition to those specified in subsection (e)(3) of this Section.  
4418 If the Agency finds, on the basis of such reports or other information, that  
4419  
4420

- 4421 the owner or operator no longer meets the requirements of subsection  
 4422 (e)(1) ~~of this Section~~, the owner or operator must provide alternate  
 4423 financial assurance, as specified in this Section, within 30 days after  
 4424 notification of such a finding.  
 4425
- 4426 8) The Agency may disallow use of this test on the basis of qualifications in  
 4427 the opinion expressed by the independent certified public accountant in the  
 4428 accountant's report on examination of the owner's or operator's financial  
 4429 statements (see subsection (e)(3)(B) ~~of this Section~~). An adverse opinion  
 4430 or a disclaimer of opinion will be cause for disallowance. The Agency  
 4431 must evaluate other qualifications on an individual basis. The owner or  
 4432 operator must provide alternate financial assurance, as specified in this  
 4433 Section, within 30 days after notification of the disallowance.  
 4434
- 4435 9) During the period of post-closure care, the Agency must approve a  
 4436 decrease in the current post-closure cost estimate for which this test  
 4437 demonstrates financial assurance if the owner or operator demonstrates to  
 4438 the Agency that the amount of the cost estimate exceeds the remaining  
 4439 cost of post-closure care.  
 4440
- 4441 10) The owner or operator is no longer required to submit the items specified  
 4442 in subsection (e)(3) ~~of this Section~~ when either of the following occurs:  
 4443
- 4444 A) An owner or operator substitutes alternate financial assurance, as  
 4445 specified in this Section; or
  - 4446 B) The Agency releases the owner or operator from the requirements  
 4447 of this Section in accordance with subsection (h) ~~of this Section~~.  
 4448
- 4449
- 4450 11) An owner or operator may meet the requirements of this Section by  
 4451 obtaining a written guarantee, hereafter referred to as "corporate  
 4452 guarantee.". The guarantor must be the direct or higher-tier parent  
 4453 corporation of the owner or operator, a firm whose parent corporation is  
 4454 also the parent corporation of the owner or operator, or a firm with a  
 4455 "substantial business relationship" with the owner or operator. The  
 4456 guarantor must meet the requirements for owners or operators in  
 4457 subsections (e)(1) through (e)(9) ~~of this Section~~, and must comply with the  
 4458 terms of the corporate guarantee. The wording of the corporate guarantee  
 4459 must be identical to the wording specified in 35 Ill. Adm. Code 724.251.  
 4460 The corporate guarantee must accompany the items sent to the Agency as  
 4461 specified in subsection (e)(3) ~~of this Section~~. One of these items must be  
 4462 the letter from the guarantor's chief financial officer. If the guarantor's  
 4463 parent corporation is also the parent corporation of the owner or operator,

4464 the letter must describe the value received in consideration of the  
4465 guarantee. If the guarantor is a firm with a "substantial business  
4466 relationship" with the owner or operator, this letter must describe this  
4467 substantial business relationship" and the value received in consideration  
4468 of the guarantee. The terms of the corporate guarantee must provide as  
4469 follows:

- 4471 A) That, if the owner or operator fails to perform post-closure care of  
4472 a facility covered by the corporate guarantee in accordance with  
4473 the post-closure plan and other interim status requirements  
4474 whenever required to do so, the guarantor will do so or establish a  
4475 trust fund as specified in subsection (a) of this Section, in the name  
4476 of the owner or operator.
- 4477 B) That the corporate guarantee will remain in force unless the  
4478 guarantor sends notice of cancellation by certified mail to the  
4479 owner or operator and to the Agency. Cancellation may not occur,  
4480 however, during the 120 days beginning on the date of receipt of  
4481 the notice of cancellation by both the owner or operator and the  
4482 Agency, as evidenced by the return receipts.
- 4483 C) That, if the owner or operator fails to provide alternate financial  
4484 assurance, as specified in this Section, and obtain the written  
4485 approval of such alternate assurance from the Agency within 90  
4486 days after receipt by both the owner or operator and the Agency of  
4487 a notice of cancellation of the corporate guarantee from the  
4488 guarantor, the guarantor will provide such alternate financial  
4489 assurance in the name of the owner or operator.

4492 f) Use of multiple financial mechanisms. An owner or operator may satisfy the  
4493 requirements of this Section by establishing more than one financial mechanism  
4494 per facility. These mechanisms are limited to trust funds, surety bonds, letters of  
4495 credit, and insurance. The mechanisms must be as specified in subsections (a)  
4496 through (d) of this Section, respectively, except that it is the combination of  
4497 mechanisms, rather than the single mechanism, that must provide financial  
4498 assurance for an amount at least equal to the current post-closure cost estimate. If  
4499 an owner or operator uses a trust fund in combination with a surety bond or a  
4500 letter of credit, it may use the trust fund as the standby trust fund for the other  
4501 mechanisms. A single standby trust fund may be established for two or more  
4502 mechanisms. The Agency may use any or all of the mechanisms to provide for  
4503 post-closure care of the facility.

4504 g) Use of a financial mechanism for multiple facilities. An owner or operator may  
4505  
4506

4507 use a financial assurance mechanism specified in this Section to meet the  
 4508 requirements of this Section for more than one facility. Evidence of financial  
 4509 assurance submitted to the Agency must include a list showing, for each facility,  
 4510 the USEPA Identification Number, name, address, and the amount of funds for  
 4511 post-closure care assured by the mechanism. The amount of funds available  
 4512 through the mechanism must be no less than the sum of funds that would be  
 4513 available if a separate mechanism had been established and maintained for each  
 4514 facility. The amount of funds available to the Agency must be sufficient to  
 4515 provide post-closure care for all of the owner or operator's facilities. In directing  
 4516 funds available through the mechanism for post-closure care of any of the  
 4517 facilities covered by the mechanism, the Agency may direct only the amount of  
 4518 funds designated for that facility, unless the owner or operator agrees to the use of  
 4519 additional funds available under the mechanism.

4520  
 4521 h) Release of the owner or operator from the requirements of this Section. Within  
 4522 60 days after receiving certifications from the owner or operator and a qualified  
 4523 Professional Engineer that the post-closure care period has been completed in  
 4524 accordance with the approved post-closure plan, the Agency must notify the  
 4525 owner or operator in writing that the owner or operator is no longer required by  
 4526 this Section to maintain financial assurance for post-closure care of that unit,  
 4527 unless the Agency determines that post-closure care has not been in accordance  
 4528 with the approved plan. The Agency must provide the owner or operator a  
 4529 detailed written statement of any such determination that post-closure care has not  
 4530 been in accordance with the approved post-closure plan.

4531  
 4532 i) Appeal. The following Agency actions are deemed to be permit modifications or  
 4533 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code  
 4534 702.184(e)(3)):

- 4535 1) An increase in, or a refusal to decrease the amount of, a bond, letter of  
 4536 credit, or insurance; or
- 4537 2) Requiring alternate assurance upon a finding that an owner or operator or  
 4538 parent corporation no longer meets a financial test.

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 4541  
 4542 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

4543  
 4544 **Section 725.247 Liability Requirements**

4545  
 4546 a) Coverage for sudden accidental occurrences. An owner or operator of a  
 4547 hazardous waste treatment, storage, or disposal facility, or a group of such  
 4548 facilities, must demonstrate financial responsibility for bodily injury and property  
 4549 damage to third parties caused by sudden accidental occurrences arising from

4550 operations of the facility or group of facilities. The owner or operator must have  
4551 and maintain liability coverage for sudden accidental occurrences in the amount  
4552 of at least \$1 million per occurrence with an annual aggregate of at least \$2  
4553 million, exclusive of legal defense costs. This liability coverage may be  
4554 demonstrated, as specified in subsections (a)(1) through (a)(6) ~~of this Section~~.  
4555

- 4556 1) An owner or operator may demonstrate the required liability coverage by  
4557 having liability insurance, as specified in this subsection (a)(1).  
4558
- 4559 A) Each insurance policy must be amended by attachment of the  
4560 Hazardous Waste Facility Liability Endorsement or evidenced by a  
4561 Certificate of Liability Insurance. The wording of the endorsement  
4562 and of the certificate of insurance must be as specified in 35 Ill.  
4563 Adm. Code 724.251. The owner or operator must submit a signed  
4564 duplicate original of the endorsement or the certificate of insurance  
4565 to the Agency. If requested by the Agency, the owner or operator  
4566 must provide a signed duplicate original of the insurance policy.  
4567
- 4568 B) Each insurance policy must be issued by an insurer that is licensed  
4569 by the Illinois Department of Financial and Professional  
4570 Regulation, Division of Insurance.  
4571
- 4572 2) An owner or operator may meet the requirements of this Section by  
4573 passing a financial test or using the guarantee for liability coverage, as  
4574 specified in subsections (f) and (g) ~~of this Section~~.  
4575
- 4576 3) An owner or operator may meet the requirements of this Section by  
4577 obtaining a letter of credit for liability coverage, as specified in subsection  
4578 (h) ~~of this Section~~.  
4579
- 4580 4) An owner or operator may meet the requirements of this Section by  
4581 obtaining a surety bond for liability coverage, as specified in subsection (i)  
4582 ~~of this Section~~.  
4583
- 4584 5) An owner or operator may meet the requirements of this Section by  
4585 obtaining a trust fund for liability coverage, as specified in subsection (j)  
4586 ~~of this Section~~.  
4587
- 4588 6) An owner or operator may demonstrate the required liability coverage  
4589 through the use of combinations of insurance, financial test, guarantee,  
4590 letter of credit, surety bond, and trust fund, except that the owner or  
4591 operator may not combine a financial test covering part of the liability  
4592 coverage requirement with a guarantee unless the financial statement of

4593 the owner or operator is not consolidated with the financial statement of  
4594 the guarantor. The amounts of coverage demonstrated must total at least  
4595 the minimum amounts required by this Section. If the owner or operator  
4596 demonstrates the required coverage through the use of a combination of  
4597 financial assurances pursuant to this subsection (a)(6), the owner or  
4598 operator must specify at least one such assurance as "primary" coverage,  
4599 and must specify other such assurance as "excess" coverage.

- 4600
- 4601 7) An owner or operator must notify the Agency within 30 days whenever  
4602 one of the following occurs:
- 4603
- 4604 A) A claim results in a reduction in the amount of financial assurance  
4605 for liability coverage provided by a financial instrument authorized  
4606 in subsections (a)(1) through (a)(6) ~~of this Section~~;
- 4607
- 4608 B) A Certification of Valid Claim for bodily injury or property  
4609 damages caused by sudden or non-sudden accidental occurrence  
4610 arising from the operation of a hazardous waste treatment, storage,  
4611 or disposal facility is entered between the owner or operator and  
4612 third-party claimant for liability coverage pursuant to subsections  
4613 (a)(1) through (a)(6) ~~of this Section~~; or
- 4614
- 4615 C) A final court order establishing a judgment for bodily injury or  
4616 property damage caused by a sudden or non-sudden accidental  
4617 occurrence arising from the operation of a hazardous waste  
4618 treatment, storage, or disposal facility is issued against the owner  
4619 or operator or an instrument that is providing financial assurance  
4620 for liability coverage pursuant to subsections (a)(1) through (a)(6)  
4621 ~~of this Section~~.
- 4622
- 4623 b) Coverage for nonsudden accidental occurrences. An owner or operator of a  
4624 surface impoundment, landfill, or land treatment facility that is used to manage  
4625 hazardous waste, or a group of such facilities, must demonstrate financial  
4626 responsibility for bodily injury and property damage to third parties caused by  
4627 nonsudden accidental occurrences arising from operations of the facility or group  
4628 of facilities. The owner or operator must have and maintain liability coverage for  
4629 nonsudden accidental occurrences in the amount of at least \$3 million per  
4630 occurrence with an annual aggregate of at least \$6 million, exclusive of legal  
4631 defense costs. An owner or operator meeting the requirements of this Section  
4632 may combine the required per-occurrence coverage levels for sudden and  
4633 nonsudden accidental occurrences into a single per-occurrence level, and combine  
4634 the required annual aggregate coverage levels for sudden and nonsudden  
4635 accidental occurrences into a single annual aggregate level. An owner or operator

4636 that combines coverage levels for sudden and nonsudden accidental occurrences  
4637 must maintain liability coverage in the amount of at least \$4 million per  
4638 occurrence and \$8 million annual aggregate. This liability coverage may be  
4639 demonstrated, as specified in subsections (b)(1) through (b)(6) ~~of this Section~~:  
4640

- 4641 1) An owner or operator may demonstrate the required liability coverage by  
4642 having liability insurance, as specified in this subsection (b)(1).  
4643
- 4644 A) Each insurance policy must be amended by attachment of the  
4645 Hazardous Waste Facility Liability Endorsement or evidenced by a  
4646 Certificate of Liability Insurance. The wording of the endorsement  
4647 must be as specified in 35 Ill. Adm. Code 724.251. The wording  
4648 of the certificate of insurance must be as specified in 35 Ill. Adm.  
4649 Code 724.251. The owner or operator must submit a signed  
4650 duplicate original of the endorsement or the certificate of insurance  
4651 to the Agency. If requested by the Agency, the owner or operator  
4652 must provide a signed duplicate original of the insurance policy.  
4653
- 4654 B) Each insurance policy must be issued by an insurer that is licensed  
4655 by the Illinois Department of Financial and Professional  
4656 Regulation, Division of Insurance.  
4657
- 4658 2) An owner or operator may meet the requirements of this Section by  
4659 passing a financial test or using the guarantee for liability coverage, as  
4660 specified in subsections (f) and (g) ~~of this Section~~.  
4661
- 4662 3) An owner or operator may meet the requirements of this Section by  
4663 obtaining a letter of credit for liability coverage, as specified in subsection  
4664 (h) ~~of this Section~~.  
4665
- 4666 4) An owner or operator may meet the requirements of this Section by  
4667 obtaining a surety bond for liability coverage, as specified in subsection (i)  
4668 ~~of this Section~~.  
4669
- 4670 5) An owner or operator may meet the requirements of this Section by  
4671 obtaining a trust fund for liability coverage, as specified in subsection (j)  
4672 ~~of this Section~~.  
4673
- 4674 6) An owner or operator may demonstrate the required liability coverage  
4675 through the use of combinations of insurance, financial test, guarantee,  
4676 letter of credit, surety bond, and trust fund, except that the owner or  
4677 operator may not combine a financial test covering part of the liability  
4678 coverage requirement with a guarantee unless the financial statement of

4679 the owner or operator is not consolidated with the financial statement of  
4680 the guarantor. The amounts of coverage demonstrated must total at least  
4681 the minimum amounts required by this Section. If the owner or operator  
4682 demonstrates the required coverage through the use of a combination of  
4683 financial assurances pursuant to this subsection (b)(6), the owner or  
4684 operator must specify at least one such assurance as "primary" coverage,  
4685 and must specify other such assurance as "excess" coverage.  
4686

4687 7) An owner or operator must notify the Agency within 30 days whenever  
4688 one of the following occurs:

4689 A) A claim results in a reduction in the amount of financial assurance  
4690 for liability coverage provided by a financial instrument authorized  
4691 in subsections (b)(1) through (b)(6) ~~of this Section;~~  
4692

4693 B) A Certification of Valid Claim for bodily injury or property  
4694 damages caused by sudden or non-sudden accidental occurrence  
4695 arising from the operation of a hazardous waste treatment, storage,  
4696 or disposal facility is entered between the owner or operator and  
4697 third-party claimant for liability coverage pursuant to subsections  
4698 (b)(1) through (b)(6) ~~of this Section;~~ or  
4699

4700 C) A final court order establishing a judgment for bodily injury or  
4701 property damage caused by a sudden or non-sudden accidental  
4702 occurrence arising from the operation of a hazardous waste  
4703 treatment, storage, or disposal facility is issued against the owner  
4704 or operator or an instrument that is providing financial assurance  
4705 for liability coverage pursuant to subsections (b)(1) through (b)(6)  
4706 ~~of this Section.~~  
4707

4708 c) Request for adjusted level of required liability coverage. If an owner or operator  
4709 demonstrates to the Agency that the levels of financial responsibility required by  
4710 ~~subsection~~ subsections (a) or (b) ~~of this Section~~ are not consistent with the degree  
4711 and duration of risk associated with treatment, storage, or disposal at the facility  
4712 or group of facilities, the owner or operator may obtain an adjusted level of  
4713 required liability coverage from the Agency. The request for an adjusted level of  
4714 required liability coverage must be submitted in writing to the Agency. If  
4715 granted, the Agency's action must take the form of an adjusted level of required  
4716 liability coverage, such level to be based on the Agency assessment of the degree  
4717 and duration of risk associated with the ownership or operation of the facility or  
4718 group of facilities. The Agency may require an owner or operator that requests an  
4719 adjusted level of required liability coverage to provide such technical and  
4720 engineering information as is necessary to determine a level of financial  
4721

4722 responsibility other than that required by subsection (a) or (b) ~~of this Section~~. The  
 4723 Agency must process any request for an adjusted level of required liability  
 4724 coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code  
 4725 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency  
 4726 must hold a public hearing whenever it finds, on the basis of requests, a  
 4727 significant degree of public interest in a tentative decision to grant an adjusted  
 4728 level of required liability insurance. The Agency may also hold a public hearing  
 4729 at its discretion whenever such a hearing might clarify one or more issues  
 4730 involved in the tentative decision.

4731  
 4732 d) Adjustments by the Agency. If the Agency determines that the levels of financial  
 4733 responsibility required by subsection (a) or (b) ~~of this Section~~ are not consistent  
 4734 with the degree and duration of risk associated with treatment, storage, or disposal  
 4735 at the facility or group of facilities, the Agency must adjust the level of financial  
 4736 responsibility required pursuant to subsection (a) or (b) ~~of this Section~~ as may be  
 4737 necessary to adequately protect human health and the environment. This adjusted  
 4738 level must be based on the Agency's assessment of the degree and duration of risk  
 4739 associated with the ownership or operation of the facility or group of facilities. In  
 4740 addition, if the Agency determines that there is a significant risk to human health  
 4741 and the environment from non-sudden accidental occurrences resulting from the  
 4742 operations of a facility that is not a surface impoundment, landfill or land  
 4743 treatment facility, the Agency may require that an owner or operator of the facility  
 4744 comply with subsection (b) ~~of this Section~~. An owner or operator must furnish to  
 4745 the Agency, within a time specified by the Agency in the request, which must not  
 4746 be less than 30 days, any information that the Agency requests to determine  
 4747 whether cause exists for such adjustments of level or type of coverage. The  
 4748 Agency must process any request for an adjusted level of required liability  
 4749 coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code  
 4750 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency  
 4751 must hold a public hearing whenever it finds, on the basis of requests, a  
 4752 significant degree of public interest in a tentative decision to grant an adjusted  
 4753 level of required liability insurance. The Agency may also hold a public hearing  
 4754 at its discretion whenever such a hearing might clarify one or more issues  
 4755 involved in the tentative decision.

4756  
 4757 e) Period of coverage. Within 60 days after receiving certifications from the owner  
 4758 or operator and a qualified Professional Engineer that final closure has been  
 4759 completed in accordance with the approved closure plan, the Agency must notify  
 4760 the owner or operator in writing that the owner or operator is no longer required  
 4761 by this Section to maintain liability coverage for that facility, unless the Agency  
 4762 determines that closure has not been in accordance with the approved closure  
 4763 plan.  
 4764

- 4765 f) Financial test for liability coverage.  
 4766  
 4767 1) An owner or operator may satisfy the requirements of this Section by  
 4768 demonstrating that the owner or operator passes a financial test, as  
 4769 specified in this subsection (f)(1). To pass this test the owner or operator  
 4770 must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) of this Section:  
 4771  
 4772 A) The owner or operator must have each of the following:  
 4773  
 4774 i) Net working capital and tangible net worth each at least six  
 4775 times the amount of liability coverage to be demonstrated  
 4776 by this test;  
 4777  
 4778 ii) Tangible net worth of at least \$10 million; and  
 4779  
 4780 iii) Assets in the United States amounting to either: at least 90  
 4781 percent of total assets; or at least six times the amount of  
 4782 liability coverage to be demonstrated by this test.  
 4783  
 4784 B) The owner or operator must have each of the following:  
 4785  
 4786 i) A current rating for the owner or operator's most recent  
 4787 bond issuance of AAA, AA, A, or BBB, as issued by  
 4788 Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by  
 4789 Moody's;  
 4790  
 4791 ii) Tangible net worth of at least \$10 million;  
 4792  
 4793 iii) Tangible net worth at least six times the amount of liability  
 4794 coverage to be demonstrated by this test; and  
 4795  
 4796 iv) Assets in the United States amounting to either of the  
 4797 following: at least 90 percent of total assets or at least six  
 4798 times the amount of liability coverage to be demonstrated  
 4799 by this test.  
 4800  
 4801 2) The phrase "amount of liability coverage," as used in subsection (f)(1) of  
 4802 this Section, refers to the annual aggregate amounts for which coverage is  
 4803 required pursuant to subsections (a) and (b) of this Section.  
 4804  
 4805 3) To demonstrate that the owner or operator meets this test, the owner or  
 4806 operator must submit each of the following three items to the Agency:  
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4850
- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter, as specified in 35 Ill. Adm. Code 724.251 is not required.
  - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
  - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating as follows:
    - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
    - ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
  - 5) After the initial submission of items specified in subsection (f)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3) of this Section.
  - 6) If the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage, as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.
  - 7) The Agency may disallow use of this test on the basis of qualifications in

the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B) ~~of this Section~~). An adverse opinion or a disclaimer of opinion is cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

g) Guarantee for liability coverage.

1) Subject to subsection (g)(2) ~~of this Section~~, an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "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 and operators in subsections (f)(1) through (f)(6) ~~of this Section~~. The wording of the guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3) ~~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. The terms of the guarantee must provide as follows:

A) If the 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 or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this 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.

B) The guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with

Section 725.247 or 35 Ill. Adm. Code 724.247.

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- 2) 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.
- 3) 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].
- h) Letter of credit for liability coverage.
  - 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.
  - 2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
  - 3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
  - 4) An owner or operator that uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

- 4937 5) The wording of the standby trust fund must be identical to the wording  
4938 specified in 35 Ill. Adm. Code 724.251(n).  
4939
- 4940 i) Surety bond for liability coverage.  
4941
- 4942 1) An owner or operator may satisfy the requirements of this Section by  
4943 obtaining a surety bond that conforms to the requirements of this  
4944 subsection (i) and submitting a copy of the bond to the Agency.  
4945
- 4946 2) The surety company issuing the bond must be licensed by the Illinois  
4947 Department of Financial and Professional Regulation, Division of  
4948 Insurance.  
4949
- 4950 3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code  
4951 724.251.  
4952
- 4953 j) Trust fund for liability coverage.  
4954
- 4955 1) An owner or operator may satisfy the requirements of this Section by  
4956 establishing a trust fund that conforms to the requirements of this  
4957 subsection and submitting a signed, duplicate original of the trust  
4958 agreement to the Agency.  
4959
- 4960 2) The trustee must be an entity that has the authority to act as a trustee and  
4961 whose trust operations are regulated and examined by the Illinois  
4962 Commissioner of Banks and Trust Companies, or that complies with the  
4963 Corporate Fiduciary Act [205 ILCS 620].  
4964
- 4965 3) The trust fund for liability coverage must be funded for the full amount of  
4966 the liability coverage to be provided by the trust fund before it may be  
4967 relied upon to satisfy the requirements of this Section. If at any time after  
4968 the trust fund is created the amount of funds in the trust fund is reduced  
4969 below the full amount of liability coverage to be provided, the owner or  
4970 operator, by the anniversary of the date of establishment of the fund, must  
4971 either add sufficient funds to the trust fund to cause its value to equal the  
4972 full amount of liability coverage to be provided, or obtain other financial  
4973 assurance, as specified in this Section, to cover the difference. For  
4974 purposes of this subsection, "the full amount of the liability coverage to be  
4975 provided" means the amount of coverage for sudden and nonsudden  
4976 accidental occurrences required to be provided by the owner or operator  
4977 by this Section, less the amount of financial assurance for liability  
4978 coverage that is being provided by other financial assurance mechanisms  
4979 being used to demonstrate financial assurance by the owner or operator.

- 4980  
4981 4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code  
4982 724.251.

4983  
4984 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
4985

4986 SUBPART I: USE AND MANAGEMENT OF CONTAINERS  
4987

4988 **Section 725.274 Inspections**  
4989

4990 At least weekly, the owner or operator must inspect areas where containers are stored. The  
4991 owner or operator must look for leaking containers and for deterioration of containers caused by  
4992 corrosion or other factors. See Section 725.171 for remedial action required if deterioration or  
4993 leaks are detected.

4994  
4995 ~~BOARD NOTE: See Section 725.271 for remedial action required if deterioration or leaks are~~  
4996 ~~detected.~~

4997  
4998 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
4999

5000 SUBPART J: TANK SYSTEMS  
5001

5002 **Section 725.290 Applicability**  
5003

5004 The regulations of this Subpart J apply to owners and operators of facilities that use tank systems  
5005 for storing or treating hazardous waste, except as otherwise provided in subsection (a), (b), or (c)  
5006 ~~of this Section or in Section 725.101.~~

- 5007  
5008 a) Tank systems that are used to store or treat hazardous waste that contains no free  
5009 liquids and that are situated inside a building with an impermeable floor are  
5010 exempted from the requirements in Section 725.293. To demonstrate the absence  
5011 or presence of free liquids in the stored or treated waste, the following test must  
5012 be used: USEPA Method 9095B (Paint Filter Liquids Test), as described in "Test  
5013 Methods for Evaluating Solid Wastes, Physical/Chemical Methods," USEPA  
5014 publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm.  
5015 Code 720.111(a).  
5016  
5017 b) Tank systems, including sumps, as defined in 35 Ill. Adm. Code 720.110, that  
5018 serve as part of a secondary containment system to collect or contain releases of  
5019 hazardous wastes are exempted from the requirements in Section 725.293(a).  
5020  
5021 c) Tanks, sumps, and other collection devices used in conjunction with drip pads, as  
5022 defined in 35 Ill. Adm. Code 720.110 and regulated under Subpart W ~~of this Part,~~

5023 must meet the requirements of this Subpart J.  
5024

5025 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
5026

5027 **Section 725.291 Assessment of Existing Tank System Integrity**  
5028

- 5029 a) For each existing tank system that does not have secondary containment meeting  
5030 the requirements of Section 725.293, the owner or operator must determine either  
5031 that the tank system is not leaking or that it is unfit for use. Except as provided in  
5032 subsection (c), the owner or operator must, after January 12, 1988, obtain and  
5033 keep on file at the facility a written assessment reviewed and certified by a  
5034 qualified Professional Engineer, in accordance with 35 Ill. Adm. Code  
5035 702.126(d), that attests to the tank system's integrity.  
5036
- 5037 b) This assessment must determine whether the tank system is adequately designed  
5038 and has sufficient structural strength and compatibility with the wastes to be  
5039 stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum,  
5040 this assessment must consider the following:  
5041
- 5042 1) Design standards, if available, according to which the tank and ancillary  
5043 equipment were constructed;
  - 5044 2) Hazardous characteristics of the wastes that have been or will be handled;
  - 5045 3) Existing corrosion protection measures;
  - 5046 4) Documented age of the tank system, if available, (otherwise, an estimate  
5047 of the age); and  
5048
  - 5049 5) Results of a leak test, internal inspection, or other tank integrity  
5050 examination, such that the following conditions are met:  
5051
- 5052 A) For non-enterable underground tanks, this assessment must consist  
5053 of a leak test that is capable of taking into account the effects of  
5054 temperature variations, tank end deflection, vapor pocket, and high  
5055 water table effects.  
5056
  - 5057 B) For other than non-enterable underground tanks and for ancillary  
5058 equipment, this assessment must be either a leak test, as described  
5059 above, or an internal inspection or other tank integrity examination  
5060 certified by a qualified Professional Engineer, in accordance with  
5061 35 Ill. Adm. Code 702.126(d), that addresses cracks, leaks,  
5062 corrosion, and erosion.  
5063  
5064  
5065

5066  
5067 BOARD NOTE: The practices described in the American Petroleum  
5068 Institute (API) Publication, "Guide for Inspection of Refinery  
5069 Equipment," Chapter XIII, "Atmospheric and Low-Pressure Storage  
5070 Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may  
5071 be used, where applicable, as guidelines in conducting the integrity  
5072 examination of an other than non-enterable underground tank system.  
5073

- 5074 c) Tank systems that store or treat materials that become hazardous wastes  
5075 subsequent to July 14, 1986 must conduct this assessment within 12 months after  
5076 the date that the waste becomes a hazardous waste.  
5077  
5078 d) If, as a result of the assessment conducted in accordance with subsection (a) of  
5079 this Section, a tank system is found to be leaking or unfit for use, the owner or  
5080 operator must comply with the requirements of Sections 725.296.

5081  
5082 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
5083

5084 **Section 725.292 Design and Installation of New Tank Systems or Components**  
5085

- 5086 a) An owner or operator of a new tank system or component must ensure that the  
5087 foundation, structural support, seams, connections, and pressure controls (if  
5088 applicable) are adequately designed and that the tank system has sufficient  
5089 structural strength, compatibility with the wastes to be stored or treated, and  
5090 corrosion protection so that it will not collapse, rupture, or fail. The owner or  
5091 operator must obtain a written assessment reviewed and certified by a qualified  
5092 Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d), attesting  
5093 that the system has sufficient structural integrity and is acceptable for the storing  
5094 and treating of hazardous waste. This assessment must include the following  
5095 information:  
5096  
5097 1) Design standards according to which the tanks and ancillary equipment is  
5098 or will be constructed.  
5099  
5100 2) Hazardous characteristics of the wastes to be handled.  
5101  
5102 3) For new tank systems or components in which the external shell of a metal  
5103 tank or any external metal component of the tank system is or will be in  
5104 contact with the soil or with water, a determination by a corrosion expert  
5105 of the following:  
5106  
5107 A) Factors affecting the potential for corrosion, including but not  
5108 limited to the following:

- 5109
- 5110 i) Soil moisture content;
- 5111
- 5112 ii) Soil pH;
- 5113
- 5114 iii) Soil sulfides level;
- 5115
- 5116 iv) Soil resistivity;
- 5117
- 5118 v) Structure to soil potential;
- 5119
- 5120 vi) Influence of nearby underground metal structures (e.g.,
- 5121 piping);
- 5122
- 5123 vii) Stray electric current;
- 5124
- 5125 viii) Existing corrosion-protection measures (e.g., coating,
- 5126 cathodic protection, etc.); and
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5128 B) The type and degree of external corrosion protection that are  
5129 needed to ensure the integrity of the tank system during the use of  
5130 the tank system or component, consisting of one or more of the  
5131 following:

- 5132
- 5133 i) Corrosion-resistant materials of construction such as
- 5134 special alloys, or fiberglass-reinforced plastic;
- 5135
- 5136 ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.)
- 5137 with cathodic protection (e.g., impressed current or
- 5138 sacrificial anodes); and
- 5139
- 5140 iii) Electrical isolation devices such as insulating joints and
- 5141 flanges, etc.
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5143 BOARD NOTE: The practices described in the National  
5144 Association of Corrosion Engineers (NACE) Standard, "Control of  
5145 External Corrosion on Metallic Buried, Partially Buried, or  
5146 Submerged Liquid Storage Systems,"<sup>2</sup> NACE Recommended  
5147 Practice RP0285, and "Cathodic Protection of Underground  
5148 Petroleum Storage Tanks and Piping Systems,"<sup>3</sup> API  
5149 Recommended Practice 1632, each incorporated by reference in  
5150 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as  
5151 guidelines in providing corrosion protection for tank systems.

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- 4) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and
- 5) Design considerations to ensure the following:
  - A) Tank foundations will maintain the load of a full tank;
  - B) Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone; and
  - C) Tank systems will withstand the effects of frost heave.
- b) The owner and operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing or placing a new tank system or component in use, an independent, qualified installation inspector or a qualified Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system or component for the presence of any of the following items:
  - 1) Weld breaks;
  - 2) Punctures;
  - 3) Scrapes of protective coatings;
  - 4) Cracks;
  - 5) Corrosion; and
  - 6) Other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.
- c) New tank systems or components and piping that are placed underground and which are backfilled must be provided with a backfill material that is a noncorrosive, porous, and homogeneous substance which is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

5195 d) All new tanks and ancillary equipment must be tested for tightness prior to being  
5196 covered, enclosed or placed in use. If a tank system is found not to be tight, all  
5197 repairs necessary to remedy the leaks in the system must be performed prior to the  
5198 tank system being covered, enclosed, or placed in use.

5199  
5200 e) Ancillary equipment must be supported and protected against physical damage  
5201 and excessive stress due to settlement, vibration, expansion, or contraction.

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5203 BOARD NOTE: The piping system installation procedures described in  
5204 "Installation of Underground Petroleum Storage Systems," API Recommended  
5205 Practice 1615, or "Chemical Plant and Petroleum Refinery Piping,"  
5206 ASME/ANSI Standard B31.3-1987, as supplemented by B31.3a-1988 and  
5207 B31.3b-1988, each incorporated by reference in 35 Ill. Adm. Code 720.111(a),  
5208 may be used where applicable, as guidelines for proper installation of piping  
5209 systems.

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5211 f) The owner and operator must provide the type and degree of corrosion protection  
5212 necessary, based on the information provided under subsection (a)(3) ~~of this~~  
5213 ~~Section~~, to ensure the integrity of the tank system during use of the tanks system.  
5214 An independent corrosion expert must supervise the installation of a corrosion  
5215 protection system that is field fabricated to ensure proper installation.

5216  
5217 g) The owner and operator must obtain and keep on file at the facility written  
5218 statements by those persons required to certify the design of the tank system and  
5219 supervise the installation of the tank system in accordance with the requirements  
5220 of subsections (b) through (f) ~~of this Section~~ to attest that the tank system was  
5221 properly designed and installed and that repairs, pursuant to subsections (b) and  
5222 (d) ~~of this Section~~ were performed. These written statements must also include  
5223 the certification statement, as required in 35 Ill. Adm. Code 702.126(d).

5224  
5225 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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5227 **Section 725.293 Containment and Detection of Releases**

5228  
5229 a) In order to prevent the release of hazardous waste or hazardous constituents to the  
5230 environment, secondary containment that meets the requirements of this Section  
5231 must be provided (except as provided in subsections (f) and (g) ~~of this Section~~).

5232  
5233 1) For a new or existing tank system or component, prior to its being put into  
5234 service.

5235  
5236 2) For a tank system that stores or treats materials that become hazardous  
5237 wastes, within two years after ~~of~~ the hazardous waste listing, or when the

5238 tank system has reached 15 years of age, whichever comes later.

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- b) Secondary containment systems must be as follows:
  - 1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and
  - 2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
- c) To meet the requirements of subsection (b) of this Section, secondary containment systems must be at a minimum as follows:
  - 1) Constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);
  - 2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;
  - 3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;
  - 4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35

5281 Ill. Adm. Code 721, it is subject to management as a hazardous waste in  
 5282 accordance with all applicable requirements of 35 Ill. Adm. Code 722  
 5283 through 728. If the collected material is discharged through a point source  
 5284 to waters of the State, it is subject to the NPDES permit requirement of  
 5285 Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code  
 5286 309. If discharged to a Publicly Owned Treatment Works (POTW), it is  
 5287 subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the  
 5288 collected material is released to the environment, it may be subject to the  
 5289 reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR  
 5290 302.6.

5291  
 5292 d) Secondary containment for tanks must include one or more of the following  
 5293 devices:

- 5294 1) A liner (external to the tank);
- 5295 2) A vault;
- 5296 3) A double-walled tank; or
- 5297 4) An equivalent device as approved by the Board in an adjusted standards  
 5298 proceeding.

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 5301 e) In addition to the requirements of subsections (b), (c), and (d), secondary  
 5302 containment systems must satisfy the following requirements:

- 5303 1) External liner systems must be as follows:
- 5304 A) Designed or operated to contain 100 percent of the capacity of the  
 5305 largest tank within the liner system's boundary;
- 5306 B) Designed or operated to prevent run-on or infiltration of  
 5307 precipitation into the secondary containment system, unless the  
 5308 collection system has sufficient excess capacity to contain run-on  
 5309 or infiltration. Such additional capacity must be sufficient to  
 5310 contain precipitation from a 25-year, 24-hour rainfall event;
- 5311 C) Free of cracks or gaps; and
- 5312 D) Designed and installed to completely surround the tank and to  
 5313 cover all surrounding earth likely to come into contact with the  
 5314 waste if released from the tanks (i.e., capable of preventing lateral  
 5315 and vertical migration of the waste).

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- 2) Vault systems must be as follows:
  - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
  - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
  - C) Constructed with chemical-resistant water stops in place at all joints (if any);
  - D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
  - E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:
    - i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or
    - ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and
  - F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.
- 3) Double-walled tanks must be as follows:
  - A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;
  - B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

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C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

BOARD NOTE: The provisions outlined in the Steel Tank Institute (STI) document "Standard for Dual Wall Underground Steel Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used as guidelines for aspects of the design of underground steel double-walled tanks.

- f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (c) and (h) of this Section, except for the following:
- 1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;
  - 2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;
  - 3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and
  - 4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.
- g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1], and in accordance with Subpart D of 35 Ill. Adm. Code 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a

5410 justification in accordance with subsection (g)(2) of this Section.  
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5412 1) When determining whether to grant alternative design and operating  
5413 practices based on a demonstration of equivalent protection of  
5414 groundwater and surface water, the Board will consider whether the  
5415 petitioner has justified an adjusted standard based on the following factors:

5416 A) The nature and quantity of the waste;

5417 B) The proposed alternate design and operation;

5418 C) The hydrogeologic setting of the facility, including the thickness of  
5419 soils between the tank system and groundwater; and  
5420

5421 D) All other factors that would influence the quality and mobility of  
5422 the hazardous constituents and the potential for them to migrate to  
5423 groundwater or surface water.  
5424

5425 2) In deciding whether to grant alternative design and operating practices  
5426 based on a demonstration of no substantial present or potential hazard, the  
5427 Board will consider whether the petitioner has justified an adjusted  
5428 standard based on the following factors:  
5429

5430 A) The potential adverse effects on groundwater, surface water, and  
5431 land quality taking the following into account:  
5432

5433 i) The physical and chemical characteristics of the waste in  
5434 the tank system, including its potential for migration;

5435 ii) The hydrogeological characteristics of the facility and  
5436 surrounding land;

5437 iii) The potential for health risks caused by human exposure to  
5438 waste constituents;

5439 iv) The potential for damage to wildlife; crops, vegetation, and  
5440 physical structures caused by exposure to waste  
5441 constituents; and  
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5443 v) The persistence and permanence of the potential adverse  
5444 effects;

5445 B) The potential adverse effects of a release on groundwater quality,  
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5453 taking the following into account:

- 5454
- 5455 i) The quantity and quality of groundwater and the direction
- 5456 of groundwater flow;
- 5457
- 5458 ii) The proximity and withdrawal rates of water in the area;
- 5459
- 5460 iii) The current and future uses of groundwater in the area; and
- 5461
- 5462 iv) The existing quality of groundwater, including other
- 5463 sources of contamination and their cumulative impact on
- 5464 the groundwater quality;
- 5465

5466 C) The potential adverse effects of a release on surface water quality,

5467 taking the following into account:

- 5468
- 5469 i) The quantity and quality of groundwater and the direction
- 5470 of groundwater flow;
- 5471
- 5472 ii) The patterns of rainfall in the region;
- 5473
- 5474 iii) The proximity of the tank system to surface waters;
- 5475
- 5476 iv) The current and future uses of surface waters in the area
- 5477 and water quality standards established for those surface
- 5478 waters; and
- 5479
- 5480 v) The existing quality of surface water, including other
- 5481 sources of contamination and the cumulative impact on
- 5482 surface water quality; and
- 5483

5484 D) The potential adverse effects of a release on the land surrounding

5485 the tank system, taking the following into account:

- 5486
- 5487 i) The patterns of rainfall in the region; and
- 5488
- 5489 ii) The current and future uses of the surrounding land.
- 5490

5491 3) The owner or operator of a tank system, for which alternative design and

5492 operating practices had been granted in accordance with the requirements

5493 of subsection (g)(1), at which a release of hazardous waste has occurred

5494 from the primary tank system but has not migrated beyond the zone of

5495 engineering control (as established in the alternative design and operating

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practices), must fulfill the following requirements:

- A) It must comply with the requirements of Section 725.296, except Section 725.296(d); and
  - B) It must decontaminate or remove contaminated soil to the extent necessary to assure the following:
    - i) It must enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and
    - ii) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.
  - C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), it must comply with the requirements of Section 725.297(b).
- 4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) ~~of this Section~~, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, must fulfill the following requirements:
- A) It must comply with the requirements of Section 725.296(a), (b), (c), and (d); and
  - B) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 725.297(b);
  - C) If repairing, replacing, or reinstalling the tank system, it must provide secondary containment in accordance with the requirements of subsections (a) through (f) ~~of this Section~~, or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the

5539 requirements for new tank systems in Section 725.292 if the tank  
5540 system is replaced. The owner or operator must comply with these  
5541 requirements even if contaminated soil is decontaminated or  
5542 removed, and groundwater or surface water has not been  
5543 contaminated.

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- 5545 h) In order to make an alternative design and operating practices demonstration, the  
5546 owner or operator must follow the following procedures, in addition to those  
5547 specified in Section 28.1 of the Act [~~415 ILCS 5/28.1~~] and Subpart D of 35 Ill.  
5548 Adm. Code 104:
- 5549
- 5550 1) The owner or operator must file a petition for approval of alternative  
5551 design and operating practices according to the following schedule:
- 5552
- 5553 A) For existing tank systems, at least 24 months prior to the date that  
5554 secondary containment must be provided in accordance with  
5555 subsection (a) ~~of this Section~~; and
- 5556
- 5557 B) For new tank systems, at least 30 days prior to entering into a  
5558 contract for installation of the tank system.
- 5559
- 5560 2) As part of the petition, the owner or operator must also submit the  
5561 following to the Board:
- 5562
- 5563 A) A description of the steps necessary to conduct the demonstration  
5564 and a timetable for completing each of the steps. The  
5565 demonstration must address each of the factors listed in subsection  
5566 (g)(1) or (g)(2) ~~of this Section~~; and
- 5567
- 5568 B) The portion of the Part B permit application specified in 35 Ill.  
5569 Adm. Code 703.202.
- 5570
- 5571 3) The owner or operator must complete its showing within 180 days after  
5572 filing its petition for approval of alternative design and operating  
5573 practices.
- 5574
- 5575 4) The Agency must issue or modify the RCRA permit so as to require the  
5576 permittee to construct and operate the tank system in the manner that was  
5577 provided in any Board order approving alternative design and operating  
5578 practices.
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- 5580 i) All tank systems, until such time as secondary containment meeting the  
5581 requirements of this Section is provided, must comply with the following:

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- 1) For non-enterable underground tanks, a leak test that meets the requirements of Section 725.291(b)(5) must be conducted at least annually.
  - 2) For other than non-enterable underground tanks and for all ancillary equipment, the owner or operator must either conduct a leak test, as described in subsection (i)(1) ~~of this Section~~, or an internal inspection or other tank integrity examination, by a qualified Professional Engineer, that addresses cracks, leaks, and corrosion or erosion at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.  
  
BOARD NOTE: The practices described in API Publication "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, when applicable, as guidelines for assessing the overall condition of the tank system.
  - 3) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) ~~of this Section~~.
  - 4) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3) ~~of this Section~~, the owner or operator must comply with the requirements of Section 725.296.

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

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5613 **Section 725.295 Inspections**  
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- a) The owner or operator must inspect the following, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.
  - b) Except as noted under subsection (c) ~~of this Section~~, the owner or operator must inspect the following at least once each operating day:
    - 1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

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- 2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
- 3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.).

BOARD NOTE: Section 725.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 725.296 requires the owner or operator to notify the Agency within 24 hours of confirming a release. Also, federal 40 CFR 302 may require the owner or operator to notify the National Response Center of a release.

- c) The owner or operator of a tank system that either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly those areas described in subsections (b)(1) through (b)(3) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.
- d) This subsection (d) corresponds with 40 CFR 265.195(d), which USEPA has removed and marked "reserved". ~~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, 12992, note 1 (Mar. 18, 2010).~~ This statement maintains structural consistency with the corresponding federal requirements.
- e) Ancillary equipment that is not provided with secondary containment, as described in Section 725.293(f)(1) through (f)(4), must be inspected at least once each operating day.
- f) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:
  - 1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and
  - 2) All sources of impressed current must be inspected or tested, as

5668 appropriate, at least every other month.

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5670 BOARD NOTE: The practices described in "Control of External Corrosion on  
5671 Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE  
5672 Recommended Practice RP0285-85, or "Cathodic Protection of Underground  
5673 Petroleum Storage Tanks and Piping Systems," API Recommended Practice  
5674 1632, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be  
5675 used, where applicable, as guidelines in maintaining and inspecting cathodic  
5676 protection systems.

5677  
5678 g) The owner or operator must document in the operating record of the facility an  
5679 inspection of those items in subsections (a) and (b) ~~of this Section~~.

5680  
5681 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

5682  
5683 **Section 725.296 Response to Leaks or Spills and Disposition of Tank Systems**

5684  
5685 A tank system or secondary containment system from which there has been a leak or spill, or  
5686 which is unfit for use, must be removed from service immediately. The owner or operator must  
5687 satisfy the following requirements:

5688  
5689 a) Cease using; prevent flow or addition of wastes. The owner or operator must  
5690 immediately stop the flow of hazardous waste into the tank system or secondary  
5691 containment system and inspect the system to determine the cause of the release.

5692  
5693 b) Removal of waste from tank system or secondary containment system.  
5694  
5695 1) If the release was from the tank system, the owner or operator must,  
5696 within 24 hours after detection of the leak, remove as much of the waste as  
5697 is necessary to prevent further release of hazardous waste to the  
5698 environment and to allow inspection and repair of the tank system to be  
5699 performed.

5700  
5701 2) If the release was to a secondary containment system, all released  
5702 materials must be removed within 24 hours to prevent harm to human  
5703 health and the environment.

5704  
5705 c) Containment of visible releases to the environment. The owner or operator must  
5706 immediately conduct a visual inspection of the release and, based upon that  
5707 inspection, do the following:

5708  
5709 1) Prevent further migration of the leak or spill to soils or surface water; and  
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- 2) Remove and properly dispose of any visible contamination of the soil or surface water.
  - d) Notifications; reports.
    - 1) Any release to the environment, except as provided in subsection (d)(2) of this Section, must be reported to the Agency within 24 hours after detection.
    - 2) A leak or spill of hazardous waste is exempted from the requirements of this subsection (d) if the following occur:
      - A) The spill is less than or equal to a quantity of one pound (0.45 kg); and
      - B) The spill is immediately contained and cleaned-up.
    - 3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency:
      - A) Likely route of migration of the release;
      - B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);
      - C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available;
      - D) Proximity to downgradient drinking water, surface water, and population areas; and
      - E) Description of response actions taken or planned.
  - e) Provision of secondary containment, repair, or closure.
    - 1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4) of this Section, the tank system must be closed in accordance with Section 725.297.
    - 2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon

5754 as the released waste is removed and repairs, if necessary, are made.

5755  
5756 3) If the cause of the release was a leak from the primary tank system into the  
5757 secondary containment system, the system must be repaired prior to  
5758 returning the tank system to service.

5759  
5760 4) If the source of the release was a leak to the environment from a  
5761 component of a tank system without secondary containment, the owner or  
5762 operator must provide the component of the system from which the leak  
5763 occurred with secondary containment that satisfies the requirements of  
5764 Section 725.293 before it is returned to service, unless the source of the  
5765 leak is an aboveground portion of a tank system. If the source is an  
5766 aboveground component that can be inspected visually, the component  
5767 must be repaired and may be returned to service without secondary  
5768 containment as long as the requirements of subsection (f) of this Section  
5769 are satisfied. If a component is replaced to comply with the requirements  
5770 of this subsection (e)(4), that component must satisfy the requirements for  
5771 new tank systems or components in Sections 725.292 and 725.293.  
5772 Additionally, if a leak has occurred in any portion of a tank system  
5773 component that is not readily accessible for visual inspection (e.g., the  
5774 bottom of an inground or onground tank), the entire component must be  
5775 provided with secondary containment in accordance with Section 725.293  
5776 prior to being returned to use.

5777  
5778 f) Certification of major repairs. If the owner or operator has repaired a tank system  
5779 in accordance with subsection (e) of this Section, and the repair has been  
5780 extensive (e.g., installation of an internal liner, repair of a ruptured primary  
5781 containment or secondary containment vessel, etc.), the tank system must not be  
5782 returned to service unless the owner or operator has obtained a certification by a  
5783 qualified Professional Engineer, in accordance with 35 Ill. Adm. Code  
5784 702.126(d), that the repaired system is capable of handling hazardous wastes  
5785 without release for the intended life of the system. This certification must be  
5786 placed in the operating record and maintained until closure of the facility.

5787  
5788 BOARD NOTE: See Section 725.115(c) for the requirements necessary to remedy a failure.  
5789 Also, federal 40 CFR 302.6 requires the owner or operator to notify the National Response  
5790 Center of a release of any "reportable quantity".

5791  
5792 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

5793  
5794 **Section 725.297 Closure and Post-Closure Care**

5795  
5796 a) At closure of a tank system, the owner or operator must remove or decontaminate

5797 all waste residues, contaminated containment system components (liners, etc.),  
5798 contaminated soils and structures and equipment contaminated with waste, and  
5799 manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies.  
5800 The closure plan, closure activities, cost estimates for closure, and financial  
5801 responsibility for tank systems must meet all of the requirements specified in  
5802 Subparts G and H of this Part.  
5803

5804 b) If the owner or operator demonstrates that not all contaminated soils can be  
5805 practicably removed or decontaminated as required in subsection (a) of this  
5806 Section, then the owner or operator must close the tank system and perform post-  
5807 closure care in accordance with the closure and post-closure care requirements  
5808 that apply to landfills (Section 725.410). In addition, for the purposes of closure,  
5809 post-closure and financial responsibility, such a tank system is then considered to  
5810 be a landfill, and the owner or operator must meet all of the requirements of  
5811 landfills specified in Subparts G and H of this Part.  
5812

5813 c) If an owner or operator has a tank system that does not have secondary  
5814 containment that meets the requirements of Section 725.293(b) through (f), and  
5815 which is not exempt from the secondary containment requirements in accordance  
5816 with Section 725.293(g), then the following requirements apply:  
5817

- 5818 1) The closure plan for the tank system must include both a plan for  
5819 complying with subsection (a) of this Section, and a contingent plan for  
5820 complying with subsection (b) of this Section;
- 5821 2) A contingent post-closure plan for complying with subsection (b) of this  
5822 Section must be prepared and submitted as part of the permit application;  
5823
- 5824 3) The cost estimates calculated for closure and post-closure care must reflect  
5825 the costs of complying with the contingent closure plan and the contingent  
5826 post-closure plan, if these costs are greater than the costs of complying  
5827 with the closure plan prepared for the expected closure under subsection  
5828 (a) of this Section;  
5829
- 5830 4) Financial assurance must be based on the cost estimates in subsection  
5831 (c)(3) of this Section; and  
5832
- 5833 5) For the purposes of the contingent closure and post-closure plans, such a  
5834 tank system is considered to be a landfill, and the contingent plans must  
5835 meet all of the closure, post-closure care, and financial responsibility  
5836 requirements for landfills under Subparts G and H of this Part.  
5837

5838 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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**Section 725.298 Special Requirements for Ignitable or Reactive Wastes**

- a) Ignitable or reactive waste must not be placed in a tank system, unless either of the following conditions is fulfilled:
  - 1) The waste is treated, rendered or mixed before or immediately after placement in the tank system so that the following two conditions are fulfilled:
    - A) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123; and
    - B) Section 725.117(b) is complied with;
  - 2) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
  - 3) The tank system is used solely for emergencies.
- b) The owner or operator of a facility where ignitable or reactive waste is stored or tested in tanks must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

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

**Section 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month**  
**(Repealed)**

- a) ~~The requirements of this Section apply to small quantity generators that generate more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and that do not accumulate over 6,000 kg on-site at any time.~~
- b) ~~A generator of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:~~
  - 1) ~~Treatment or storage of hazardous waste in tanks must comply with~~

5883 Section 725.117(b);

5884

5885 2) ~~Hazardous wastes or treatment reagents must not be placed in a tank if~~  
5886 ~~they could cause the tank or its inner liner to rupture, leak, corrode, or~~  
5887 ~~otherwise fail before the end of its intended life;~~

5888

5889 3) ~~Uncovered tanks must be operated to ensure at least 60 centimeters (2~~  
5890 ~~feet) of freeboard unless the tank is equipped with a containment structure~~  
5891 ~~(e.g., dike or trench), a drainage control system, or a diversion structure~~  
5892 ~~(e.g., standby tank) with a capacity that equals or exceeds the volume of~~  
5893 ~~the top 60 centimeters (2 feet) of the tank; and~~

5894

5895 4) ~~Where hazardous waste is continuously fed into a tank, the tank must be~~  
5896 ~~equipped with a means to stop this inflow (e.g., waste feed cutoff system~~  
5897 ~~or by-pass system to a stand-by tank).~~

5898

5899 ~~BOARD NOTE: These systems are intended to be used in the event of a leak or~~  
5900 ~~overflow from the tank due to a system failure (e.g., a malfunction in the~~  
5901 ~~treatment process, a crack in the tank, etc.).~~

5902

5903 e) ~~Except as noted in subsection (d) of this Section, a generator of between 100 and~~  
5904 ~~1,000 kg/mo accumulating hazardous waste in tanks must inspect the following,~~  
5905 ~~where present:~~

5906

5907 1) ~~Discharge control equipment (e.g., waste feed cutoff systems, by-pass~~  
5908 ~~systems, and drainage systems) at least once each operating day, to ensure~~  
5909 ~~that it is in good working order;~~

5910

5911 2) ~~Data gathered from monitoring equipment (e.g., pressure and temperature~~  
5912 ~~gauges) at least once each operating day to ensure that the tank is being~~  
5913 ~~operated according to its design;~~

5914

5915 3) ~~The level of waste in the tank at least once each operating day to ensure~~  
5916 ~~compliance with subsection (b)(3) of this Section;~~

5917

5918 4) ~~The construction materials of the tank at least weekly to detect corrosion~~  
5919 ~~or leaking of fixtures or seams; and~~

5920

5921 5) ~~The construction materials of and the area immediately surrounding~~  
5922 ~~discharge confinement structures (e.g., dikes) at least weekly to detect~~  
5923 ~~erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).~~

5924

5925 ~~BOARD NOTE: As required by Section 725.115(e), the owner or operator must~~

- 5926 ~~remedy any deterioration or malfunction the owner or operator finds.~~  
 5927  
 5928 d) ~~A generator that accumulates between 100 and 1,000 kg/mo of hazardous waste in~~  
 5929 ~~tanks or tank systems which have full secondary containment and which either~~  
 5930 ~~uses leak detection equipment to alert facility personnel to leaks or implements~~  
 5931 ~~established workplace practices to ensure leaks are promptly identified must~~  
 5932 ~~inspect at least weekly, where applicable, the areas identified in subsections (e)(1)~~  
 5933 ~~through (e)(5) of this Section. Use of the alternate inspection schedule must be~~  
 5934 ~~documented in the facility's operating record. This documentation must include a~~  
 5935 ~~description of the established workplace practices at the facility.~~  
 5936  
 5937 e) ~~This subsection (e) corresponds with 40 CFR 265.201(e), which became obsolete~~  
 5938 ~~when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741~~  
 5939 ~~(May 14, 2009). USEPA has recognized that program related rules are no longer~~  
 5940 ~~effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement~~  
 5941 ~~maintains structural consistency with the corresponding federal requirements.~~  
 5942  
 5943 f) ~~A generator of between 100 and 1,000 kg/mo accumulating hazardous waste in~~  
 5944 ~~tanks must, upon closure of the facility, remove all hazardous waste from tanks,~~  
 5945 ~~discharge control equipment, and discharge confinement structures.~~  
 5946  
 5947 ~~BOARD NOTE: At closure, as throughout the operating period, unless the owner~~  
 5948 ~~or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(d) or (e),~~  
 5949 ~~that any solid waste removed from the tank is not a hazardous waste, the owner or~~  
 5950 ~~operator becomes a generator of hazardous waste and must manage it in~~  
 5951 ~~accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and~~  
 5952 ~~725.~~  
 5953  
 5954 g) ~~A generator of between 100 and 1,000 kg/mo must comply with the following~~  
 5955 ~~special requirements for ignitable or reactive waste:~~  
 5956  
 5957 1) ~~Ignitable or reactive waste must not be placed in a tank unless one of the~~  
 5958 ~~following conditions are fulfilled:~~  
 5959  
 5960 A) ~~The waste is treated, rendered, or mixed before or immediately~~  
 5961 ~~after placement in a tank so that the following is true of the waste:~~  
 5962  
 5963 i) ~~The resulting waste, mixture, or dissolution of material no~~  
 5964 ~~longer meets the definition of ignitable or reactive waste~~  
 5965 ~~under 35 Ill. Adm. Code 721.121 or 721.123, and~~  
 5966  
 5967 ii) ~~Section 725.117(b) is complied with;~~  
 5968

- 5969 B) ~~The waste is stored or treated in such a way that it is protected~~  
5970 ~~from any material or conditions that may cause the waste to ignite~~  
5971 ~~or react; or~~  
5972  
5973 C) ~~The tank is used solely for emergencies.~~  
5974  
5975 2) ~~The owner or operator of a facility that treats or stores ignitable or reactive~~  
5976 ~~waste in covered tanks must comply with the buffer zone requirements for~~  
5977 ~~tanks contained in Tables 2-1 through 2-6 of "Flammable and~~  
5978 ~~Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill.~~  
5979 ~~Adm. Code 720.111(a).~~  
5980  
5981 h) ~~A generator of between 100 and 1,000 kg/mo must comply with the following~~  
5982 ~~special requirements for incompatible wastes:~~  
5983  
5984 1) ~~Incompatible wastes or incompatible wastes and materials (see appendix~~  
5985 ~~V of 40 CFR 265 (Examples of Potentially Incompatible Waste),~~  
5986 ~~incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples)~~  
5987 ~~must not be placed in the same tank unless Section 725.117(b) is complied~~  
5988 ~~with.~~  
5989  
5990 2) ~~Hazardous waste must not be placed in an unwashed tank that previously~~  
5991 ~~held an incompatible waste or material unless Section 725.117(b) is~~  
5992 ~~complied with.~~  
5993

5994 (Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
5995

5996 **Section 725.302 Air Emission Standards**  
5997

5998 The owner or operator must manage all hazardous waste placed in a tank in accordance with the  
5999 requirements of Subparts AA, BB, and CC of this Part.

6000 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6001  
6002

6003 **SUBPART K: SURFACE IMPOUNDMENTS**  
6004

6005 **Section 725.321 Design and Operating Requirements**  
6006

- 6007 a) The owner or operator of each new surface impoundment unit, each lateral  
6008 expansion of a surface impoundment unit, and each replacement of an existing  
6009 surface impoundment unit must install two or more liners and a leachate  
6010 collection and removal system between such liners, and operate the leachate  
6011 collection and removal system, in accordance with 35 Ill. Adm. Code 724.321(c),

- 6012 unless exempted under 35 Ill. Adm. Code 724.321(d), (e), or (f).  
6013  
6014 b) The owner or operator of each unit referred to in subsection (a) of this Section  
6015 must notify the Agency at least sixty days prior to receiving waste. The owner or  
6016 operator of each facility submitting notice must file a Part B application within six  
6017 months of the receipt of such notice.  
6018  
6019 c) The owner or operator of any replacement surface impoundment unit is exempt  
6020 from subsection (a) of this Section if the following conditions are fulfilled:  
6021  
6022 1) The existing unit was constructed in compliance with the design standards  
6023 of 35 Ill. Adm. Code 724.321(c), (d), and (e); and  
6024  
6025 BOARD NOTE: The cited subsections implemented the design standards  
6026 of sections 3004(o)(1)(A)(i) and (o)(5) of RCRA the Resource  
6027 Conservation and Recovery Act (42 USC 6924(o)(1)(A)(i) and (o)(5)).  
6028  
6029 2) There is no reason to believe that the liner is not functioning as designed.  
6030  
6031 d) The Agency must not require a double liner as set forth in subsection (a) of this  
6032 Section for any monofill, if the following conditions are fulfilled:  
6033  
6034 1) The monofill contains only hazardous wastes from foundry furnace  
6035 emission controls or metal casting molding sand, and such wastes do not  
6036 contain constituents that render the wastes hazardous for reasons other  
6037 than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA  
6038 hazardous waste numbers D004 through D017; and  
6039  
6040 2) No migration demonstration.  
6041  
6042 A) Design and location requirements.  
6043  
6044 i) The monofill has at least one liner for which there is no  
6045 evidence that such liner is leaking. For the purposes of this  
6046 subsection (d)(2)(A)(i) the term "liner" means a liner  
6047 designed, constructed, installed, and operated to prevent  
6048 hazardous waste from passing into the liner at any time  
6049 during the active life of the facility, or a liner designed,  
6050 constructed, installed, and operated to prevent hazardous  
6051 waste from migrating beyond the liner to adjacent  
6052 subsurface soil, groundwater, or surface water at any time  
6053 during the active life of the facility. In the case of any  
6054 surface impoundment that has been exempted from the

6055 requirements of subsection (a) ~~of this Section~~, of a liner  
6056 designed, constructed, installed, and operated to prevent  
6057 hazardous waste from passing beyond the liner, at the  
6058 closure of such impoundment the owner or operator must  
6059 remove or decontaminate all waste residues, all  
6060 contaminated liner material and contaminated soil to the  
6061 extent practicable. If all contaminated soil is not removed  
6062 or decontaminated, the owner or operator of such  
6063 impoundment must comply with appropriate post-closure  
6064 requirements, including but not limited to groundwater  
6065 monitoring and corrective action;

- 6066
- 6067 ii) The monofill is located more than one-quarter mile from an  
6068 underground source of drinking water (as that term is  
6069 defined in 35 Ill. Adm. Code 702.110); and
- 6070
- 6071 iii) The monofill is in compliance with generally applicable  
6072 groundwater monitoring requirements for facilities with  
6073 RCRA permits; or  
6074

6075 B) The owner or operator demonstrates to the Board that the monofill  
6076 is located, designed, and operated so as to assure that there will be  
6077 no migration of any hazardous constituent into groundwater or  
6078 surface water at any future time.  
6079

- 6080 e) In the case of any unit in which the liner and leachate collection system have been  
6081 installed pursuant to the requirements of subsection (a) ~~of this Section~~, and in  
6082 good faith compliance with subsection (a) ~~of this section~~ and with guidance  
6083 documents governing liners and leachate collection systems under subsection (a)  
6084 ~~of this Section~~, the Agency must not require a liner or leachate collection system  
6085 that is different from that which was so installed pursuant to subsection (a) ~~of this~~  
6086 ~~Section~~ when issuing the first permit to such facility, except that the Agency is  
6087 not precluded from requiring installation of a new liner when the Agency finds  
6088 that any liner installed pursuant to the requirements of subsection (a) ~~of this~~  
6089 ~~Section~~ is leaking.  
6090
- 6091 f) A surface impoundment must maintain enough freeboard to prevent any  
6092 overtopping of the dike by overfilling, wave action, or a storm. Except as  
6093 provided in subsection (g) ~~of this Section~~, there must be at least 60 centimeters  
6094 (two feet) of freeboard.  
6095
- 6096 g) A freeboard level less than 60 centimeters (two feet) may be maintained if the  
6097 owner or operator obtains certification by a qualified engineer that alternate

6098 design features or operating plans will, to the best of the engineer's knowledge  
 6099 and opinion, prevent overtopping of the dike. The certification, along with a  
 6100 written identification of alternate design features or operating plans preventing  
 6101 overtopping, must be maintained at the facility.

6102  
 6103 BOARD NOTE: Any point source discharge from a surface impoundment to  
 6104 waters of the State is subject to the requirements of Section 12 of the  
 6105 Environmental Protection Act [415 ILCS 5/12]. Spills may be subject to Section  
 6106 311 of the Clean Water Act (33 USC 1321).

6107  
 6108 h) Surface impoundments that are newly subject to this Part due to the promulgation  
 6109 of additional listings or characteristics for the identification of hazardous waste  
 6110 must be in compliance with subsections (a), (c), or (d) of this Section not later  
 6111 than 48 months after the promulgation of the additional listing or characteristic.  
 6112 This compliance period must not be cut short as the result of the promulgation of  
 6113 land disposal prohibitions under 35 Ill. Adm. Code 728 or the granting of an  
 6114 extension to the effective date of a prohibition pursuant to 35 Ill. Adm. Code  
 6115 728.105, within this 48 month period.

6116  
 6117 i) Refusal to grant an exemption or waiver, or grant with conditions, may be  
 6118 appealed to the Board.

6119  
 6120 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

6121  
 6122 **Section 725.322 Action Leakage Rate**

6123  
 6124 a) The owner or operator of surface impoundment units subject to Section  
 6125 725.321(a) must submit a proposed action leakage rate to the Agency when  
 6126 submitting the notice required under Section 725.321(b). Within 60 days of  
 6127 receipt of the notification, the Agency must do either of the following: establish  
 6128 an action leakage rate, either as proposed by the owner or operator or modified  
 6129 using the criteria in this Section, or extend the review period for up to 30 days. If  
 6130 no action is taken by the Agency before the original 60 or extended 90 day review  
 6131 periods, the action leakage rate will be approved as proposed by the owner or  
 6132 operator.

6133  
 6134 b) The Agency must approve an action leakage rate for surface impoundment units  
 6135 subject to Section 725.321(a). The action leakage rate is the maximum design  
 6136 flow rate that the leak detection system (LDS) can remove without the fluid head  
 6137 on the bottom liner exceeding one foot. The action leakage rate must include an  
 6138 adequate safety margin to allow for uncertainties in the design (e.g., slope,  
 6139 hydraulic conductivity, thickness of drainage material, etc.), construction,  
 6140 operation, and location of the LDS; waste and leachate characteristics; the

6141 likelihood and amounts of other sources of liquids in the LDS; and proposed  
 6142 response actions (e.g., the action leakage rate must consider decreases in the flow  
 6143 capacity of the system over time resulting from siltation and clogging, rib layover,  
 6144 and creep of synthetic components of the system; overburden pressures; etc.).  
 6145

6146 c) To determine if the action leakage rate has been exceeded, the owner or operator  
 6147 must convert the weekly or monthly flow rate from the monitoring data obtained  
 6148 under Section 725.326(b) to an average daily flow rate (gallons per acre per day)  
 6149 for each sump. The average daily flow rate for each sump must be calculated  
 6150 weekly during the active life and closure period and, if the unit is closed in  
 6151 accordance with Section 725.328(a)(2), monthly during the post-closure care  
 6152 period, unless the Agency approves a different frequency pursuant to Section  
 6153 725.326(b).  
 6154

6155 d) Final Agency determinations pursuant to this Section are deemed to be permit  
 6156 denials for purposes of appeal to the Board pursuant to Section 40 of the  
 6157 Environmental Protection Act [415 ILCS 5/40].  
 6158

6159 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 6160

6161 **Section 725.324 Response Actions**

6162 a) The owner or operator of surface impoundment units subject to Section  
 6163 725.321(a) must develop and keep on site a response action plan. The response  
 6164 action plan must set forth the actions to be taken if the action leakage rate has  
 6165 been exceeded. At a minimum, the response action plan must describe the actions  
 6166 specified in subsection (b) of this Section.  
 6167

6168 b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the  
 6169 owner or operator must do the following:  
 6170

6171 1) Notify the Agency in writing of the exceedance within seven days after the  
 6172 determination;  
 6173

6174 2) Submit a preliminary written assessment to the Agency within 14 days of  
 6175 the determination, as to the amount of liquids; likely sources of liquids;  
 6176 possible location, size, and cause of any leaks; and short-term actions  
 6177 taken and planned;  
 6178

6179 3) Determine to the extent practicable the location, size, and cause of any  
 6180 leak;  
 6181

6182 4) Determine whether waste receipt should cease or be curtailed; whether any  
 6183

- 6184 waste should be removed from the unit for inspection, repairs, or controls;  
6185 and whether or not the unit should be closed;  
6186  
6187 5) Determine any other short-term and longer-term actions to be taken to  
6188 mitigate or stop any leaks; and  
6189  
6190 6) Within 30 days after the notification that the action leakage rate has been  
6191 exceeded, submit to the Agency the results of the determinations specified  
6192 in subsections (b)(3) through (b)(5) ~~of this Section~~, the results of actions  
6193 taken, and actions planned. Monthly thereafter, as long as the flow rate in  
6194 the LDS exceeds the action leakage rate, the owner or operator must  
6195 submit to the Agency a report summarizing the results of any remedial  
6196 actions taken and actions planned.  
6197  
6198 c) To make the leak or remediation determinations in subsections (b)(3) through  
6199 (b)(5) ~~of this Section~~, the owner or operator must do either of the following:  
6200  
6201 1) Perform the following assessments:  
6202  
6203 A) Assess the source of liquids and amounts of liquids by source;  
6204  
6205 B) Conduct a fingerprint, hazardous constituent, or other analyses of  
6206 the liquids in the LDS to identify the source of liquids and possible  
6207 location of any leaks, and the hazard and mobility of the liquid;  
6208 and  
6209  
6210 C) Assess the seriousness of any leaks in terms of potential for  
6211 escaping into the environment; or  
6212  
6213 2) Document why such assessments are not needed.  
6214  
6215 d) Final Agency determinations pursuant to this Section are deemed to be permit  
6216 denials for purposes of appeal to the Board pursuant to Section 40 of the  
6217 Environmental Protection Act ~~[415 ILCS 5/40]~~.

6218  
6219 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6220

### 6221 **Section 725.325 Waste Analysis and Trial Tests**

6222  
6223 In addition to the waste analyses required by Section 725.113, whenever a surface impoundment  
6224 is to be used for either of the purposes in subsections (a) and (b) ~~of this Section~~, the owner or  
6225 operator must, before treating the different waste or using the different process, perform either of  
6226 the required actions listed in subsection (c) ~~of this Section~~:

- 6227  
6228 a) Chemically treat a hazardous waste that is substantially different from waste  
6229 previously treated in that impoundment; or  
6230  
6231 b) Chemically treat hazardous waste with a substantially different process than and  
6232 previously used in that impoundment.  
6233  
6234 c) Required actions.  
6235  
6236 1) The owner or operator must conduct waste analyses and trial treatment  
6237 tests (e.g., bench scale or pilot plant scale tests); or  
6238  
6239 2) The owner or operator must obtain written, documented information on  
6240 similar treatment of similar waste under similar operating conditions, to  
6241 show that this treatment will comply with Section 725.117(b).  
6242

6243 BOARD NOTE: As required by Section 725.113, the waste analyses plan must include  
6244 analyses needed to comply with Sections 725.329 and 725.330. As required by Section  
6245 725.173, the owner or operator must place the results from each waste analysis and trial  
6246 test, or the documented information in the operating record of the facility.  
6247

6248 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6249

6250 **Section 725.326 Monitoring and Inspections**

- 6251 a) The owner or operator must inspect:  
6252  
6253 1) The freeboard level at least once each operating day to ensure compliance  
6254 with Section 725.322; and  
6255  
6256 2) The surface impoundment, including dikes and vegetation surrounding the  
6257 dike, at least once a week to detect any leaks, deterioration, or failures in  
6258 the impoundment.  
6259

6260 BOARD NOTE: As required by Section 725.115(c), the owner or operator must  
6261 remedy any deterioration or malfunction the owner or operator finds.  
6262

- 6263 b) LDS.  
6264  
6265 1) An owner or operator required to have a LDS under Section 725.321(a)  
6266 must record the amount of liquids removed from each LDS sump at least  
6267 once each week during the active life and closure period.  
6268  
6269

- 6270 2) After the final cover is installed, the amount of liquids removed from each  
6271 LDS sump must be recorded at least monthly. If the liquid level in the  
6272 sump stays below the pump operating level for two consecutive months,  
6273 the amount of liquids in the sumps must be recorded at least quarterly. If  
6274 the liquid level in the sump stays below the pump operating level for two  
6275 consecutive quarters, the amount of liquids in the sumps must be recorded  
6276 at least semi-annually. If at any time during the post-closure care period  
6277 the pump operating level is exceeded at units on quarterly or semi-annual  
6278 recording schedules, the owner or operator must return to monthly  
6279 recording of amounts of liquids removed from each sump until the liquid  
6280 level again stays below the pump operating level for two consecutive  
6281 months.
- 6282
- 6283 3) "Pump operating level" is a liquid level proposed by the owner or operator  
6284 and approved by the Agency based on pump activation level, sump  
6285 dimensions, and level that avoids backup into the drainage layer and  
6286 minimizes head in the sump. The timing for submission and approval of  
6287 the proposed "pump operating level" will be in accordance with Section  
6288 725.322(a).
- 6289
- 6290 c) Final Agency determinations pursuant to this Section are deemed to be permit  
6291 denials for purposes of appeal to the Board pursuant to Section 40 of the  
6292 Environmental Protection Act-[415-ILCS-5/40].  
6293  
6294 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6295

6296 **Section 725.328 Closure and Post-Closure Care**

- 6297
- 6298 a) At closure, the owner or operator must do either of the following:  
6299
- 6300 1) Remove or decontaminate all waste residues, contaminated containment  
6301 system components (liners, etc.), contaminated subsoils, and structures  
6302 and equipment contaminated with waste or leachate and manage them as  
6303 hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies; or  
6304
- 6305 2) Close the impoundment and provide post-closure care for a landfill under  
6306 Subpart G of this Part and Section 725.410, including the following:  
6307
- 6308 A) Eliminate free liquids by removing liquid wastes or solidifying the  
6309 remaining wastes and waste residues;
- 6310
- 6311 B) Stabilize remaining wastes to a bearing capacity sufficient to  
6312 support final cover; and

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- C) Cover the surface impoundment with a final cover designed and constructed to do the following:
- i) Provide long-term minimization of the migration of liquids through the closed impoundment;
  - ii) Function with minimum maintenance;
  - iii) Promote drainage and minimize erosion or abrasion of the cover;
  - iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and
  - v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.
- b) In addition to the requirements of Subpart G of this Part and Section 725.410, during the post-closure care period the owner or operator of a surface impoundment in which wastes, waste residues or contaminated materials remain after closure in accordance with subsection (a)(2) of this Section must:
- 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;
  - 2) Maintain and monitor the LDS in accordance with 35 Ill. Adm. Code 724.321(c)(2)(D) and (c)(3) and 725.326(b) and comply with all other applicable LDS requirements of this Part;
  - 3) Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of Subpart F of this Part; and
  - 4) Prevent run-on and run-off from eroding or damaging the final cover.

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

#### SUBPART L: WASTE PILES

##### **Section 725.350 Applicability**

The regulations in this Subpart L apply to owners and operators of facilities that treat or store

6356 hazardous waste in piles, except as Section 725.101 provides otherwise. Alternatively, a pile of  
6357 hazardous waste may be managed as a landfill under Subpart N of this Part.

6358  
6359 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6360

6361 **Section 725.353 Containment**  
6362

6363 If leachate or run-off from a pile is a hazardous waste, then control of the leachate or runoff must  
6364 be accomplished by either of the following means:

- 6365
- 6366 a) Control by pile design, construction, and operation.  
6367
    - 6368 1) The pile must be placed on an impermeable base that is compatible with  
6369 the waste under the conditions of treatment or storage;
    - 6370
    - 6371 2) The owner or operator must design, construct, operate and maintain a run-  
6372 on control system capable of preventing flow onto the active portion of the  
6373 pile during peak discharge from at least a 25-year storm;
    - 6374
    - 6375 3) The owner or operator must design, construct, operate and maintain a run-  
6376 off management system to collect and control at least the water volume  
6377 resulting from a 24-hour, 25-year storm; and
    - 6378
    - 6379 4) Collection and holding facilities (e.g., tanks or basins) associated with run-  
6380 on and run-off control systems must be emptied or otherwise managed  
6381 expeditiously to maintain design capacity of the system; or
    - 6382
  - 6383 b) Alternative control.  
6384
    - 6385 1) The pile must be protected from precipitation and runoff by some other  
6386 means; and
    - 6387
    - 6388 2) No liquids or wastes containing free liquids may be placed in the pile.
    - 6389

6390 BOARD NOTE: If collected leachate or runoff is discharged through a point source to waters of  
6391 the United States, it is subject to the requirements of Section 12 of the Illinois Environmental  
6392 Protection Act [415 ILCS 5/12].  
6393

6394 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6395

6396 **Section 725.354 Design and Operating Requirements**  
6397

6398 The owner or operator of each new waste pile on which construction commences after January

6399 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July  
 6400 29, 1992, and each such replacement of an existing waste pile unit that is to commence reuse  
 6401 after July 29, 1992, must install two or more liners and a leachate collection and removal system  
 6402 above and between such liners and operate the leachate collection and removal systems, in  
 6403 accordance with 35 Ill. Adm. Code 724.351(c), unless exempted under 35 Ill. Adm. Code  
 6404 724.351(d), (e) or (f); and must comply with the procedures of Section 725.321(b).  
 6405 "Construction commences" is as defined in 35 Ill. Adm. Code 720.110 under "existing facility".  
 6406 The owner or operator of each unit referred to in this Section must notify the Agency at least  
 6407 sixty days prior to receiving waste. The owner or operator of each facility submitting notice  
 6408 must file a Part B application within six months after the receipt of such notice.  
 6409

6410 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 6411

6412 **Section 725.355 Action Leakage Rates**  
 6413

- 6414 a) The owner or operator of waste pile units subject to Section 725.354 must submit  
 6415 a proposed action leakage rate to the Agency when submitting the notice required  
 6416 under Section 725.354. Within 60 days after receipt of the notification, the  
 6417 Agency must either establish an action leakage rate, either as proposed by the  
 6418 owner or operator or modified using the criteria in this Section, or it must extend  
 6419 the review period for up to 30 days. If no action is taken by the Agency before  
 6420 the original 60 or extended 90 day review period, the action leakage rate must be  
 6421 approved as proposed by the owner or operator.  
 6422
- 6423 b) The Agency must approve an action leakage rate for waste pile units subject to  
 6424 Section 725.354. The action leakage rate is the maximum design flow rate that  
 6425 the LDS can remove without the fluid head on the bottom liner exceeding one  
 6426 foot. The action leakage rate must include an adequate safety margin to allow for  
 6427 uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of  
 6428 drainage material, etc.), construction, operation, and location of the LDS; waste  
 6429 and leachate characteristics; the likelihood and amounts of other sources of  
 6430 liquids in the LDS; and proposed response actions (e.g., the action leakage rate  
 6431 must consider decreases in the flow capacity of the system over time resulting  
 6432 from siltation and clogging, rib layover, and creep of synthetic components of the  
 6433 system; overburden pressures; etc.).  
 6434
- 6435 c) To determine if the action leakage rate has been exceeded, the owner or operator  
 6436 must convert the weekly flow rate from the monitoring data obtained under  
 6437 Section 725.360, to an average daily flow rate (gallons per acre per day) for each  
 6438 sump. The average daily flow rate for each sump must be calculated weekly  
 6439 during the active life and closure period.  
 6440
- 6441 d) Final Agency determinations pursuant to this Section are deemed to be permit

6442 denials for purposes of appeal to the Board pursuant to Section 40 of the  
6443 Environmental Protection Act ~~[415 ILCS 5/40]~~.

6444 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6446

6447 **Section 725.358 Closure and Post-Closure Care**  
6448

- 6449 a) At closure, the owner or operator must remove or decontaminate all waste  
6450 residues, contaminated containment system components (liners, etc.),  
6451 contaminated subsoils, and structures and equipment contaminated with waste and  
6452 leachate and manage them as hazardous waste, unless 35 Ill. Adm. Code  
6453 721.103(d) applies; or  
6454
- 6455 b) If, after removing or decontaminating all residues and making all reasonable  
6456 efforts to effect removal or decontamination of contaminated components,  
6457 subsoils, structures, and equipment, as required in subsection (a) ~~of this Section~~,  
6458 the owner or operator finds that not all contaminated subsoils can be practicably  
6459 removed or decontaminated, it must close the facility and perform post-closure  
6460 care in accordance with the closure and post-closure requirements that apply to  
6461 landfills (Section 725.410).  
6462

6463 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6464

6465 **Section 725.359 Response Actions**  
6466

- 6467 a) The owner or operator of waste pile units subject to Section 725.354 must submit  
6468 a response action plan to the Agency when submitting the proposed action  
6469 leakage rate under Section 725.355. The response action plan must set forth the  
6470 actions to be taken if the action leakage rate has been exceeded. At a minimum,  
6471 the response action plan must describe the actions specified in subsection (b) ~~of~~  
6472 ~~this Section~~.  
6473
- 6474 b) If the flow rate into the leak determination system exceeds the action leakage rate  
6475 for any sump, the owner or operator must do the following:  
6476
- 6477 1) Notify the Agency in writing of the exceedance within seven days after the  
6478 determination;
  - 6479 2) Submit a preliminary written assessment to the Agency within 14 days  
6480 after the determination as to the amount of liquids; likely sources of  
6481 liquids; possible location, size, and cause of any leaks; and short-term  
6482 actions taken and planned;  
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6484

- 6485 3) Determine to the extent practicable the location, size, and cause of any  
6486 leak;
- 6487
- 6488 4) Determine whether waste receipts should cease or be curtailed; whether  
6489 any waste should be removed from the unit for inspection, repairs, or  
6490 controls; and whether or not the unit should be closed;
- 6491
- 6492 5) Determine any other short-term and longer-term actions to be taken to  
6493 mitigate or stop any leaks; and
- 6494
- 6495 6) Within 30 days after the notification that the action leakage rate has been  
6496 exceeded, submit to the Agency the results of the determinations specified  
6497 in subsections (b)(3) through (b)(5) of this Section, the results of actions  
6498 taken, and actions planned. Monthly thereafter, as long as the flow rate in  
6499 the LDS exceeds the action leakage rate, the owner or operator must  
6500 submit to the Agency a report summarizing the results of any remedial  
6501 actions taken and actions planned.
- 6502
- 6503 c) To make the leak or remediation determinations in subsections (b)(3) through  
6504 (b)(5) of this Section, the owner or operator must do either of the following:
- 6505
- 6506 1) Perform the following assessments:
- 6507
- 6508 A) Assess the source of liquids and amounts of liquids by source;
- 6509
- 6510 B) Conduct a fingerprint, hazardous constituent, or other analyses of  
6511 the liquids in the LDS to identify the source of liquids and possible  
6512 location of any leaks, and the hazard and mobility of the liquid;  
6513 and
- 6514
- 6515 C) Assess the seriousness of any leaks in terms of potential for  
6516 escaping into the environment; or
- 6517
- 6518 2) Document why such assessments are not needed.
- 6519
- 6520 d) Final Agency determinations pursuant to this Section are deemed to be permit  
6521 denials for purposes of appeal to the Board pursuant to Section 40 of the  
6522 Environmental Protection Act [415 ILCS 5/40].
- 6523

6524 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

6525  
6526 SUBPART M: LAND TREATMENT  
6527

6528 **Section 725.376 Food Chain Crops**

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- a) This subsection (a) corresponds with 40 CFR 265.276(a), which required notification of activity before a date long past. This statement maintains structural consistency with the corresponding federal rules.~~An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, must have notified the Agency by July 16, 1982.~~

BOARD NOTE: ~~Growing~~The growth of food chain crops at a facility that has never before been used for this purpose is a significant change in process under 35 Ill. Adm. Code 703.155. The owner or operator of such a land treatment facility that proposes to grow food chain crops after May 17, 1982 must have submitted a new or revised Part A permit application.~~complied with 35 Ill. Adm. Code 703.155~~

- b) Limitation relating to arsenic, lead, mercury, and other constituents.
  - 1) Food chain crops must not be grown on the treated area of a hazardous waste land treatment facility, unless the owner or operator can demonstrate, based on field testing, that either of the following is true of any arsenic, lead, mercury, or other constituents identified under Section 725.373(b):
    - A) They will not be transferred to the food portion of the crop by plant uptake or direct contact and will not otherwise be ingested by food chain animals (e.g., by grazing); or
    - B) They will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions in the same region.
  - 2) The information necessary to make the demonstration required by subsection (b)(1) ~~of this Section~~ must be kept at the facility and must, at a minimum, fulfill the following conditions:
    - A) It must be based on tests for the specific waste and application rates being used at the facility; and
    - B) It must include descriptions of crop and soil characteristics, sample selection, criteria, sample size determination, analytical methods, and statistical procedures.

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c) Limitation relating to cadmium. Food chain crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of subsections (c)(1)(A) through (c)(1)(C) of this Section or all requirements of subsection (c)(2)(A) through (c)(2)(D) of this Section are met.

1) Cadmium limitation for crops for human consumption. Application of waste must comply with all of the following conditions:

A) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

B) The annual application of cadmium from waste does not exceed 0.5 kilograms per hectare (kg/ha) (0.45 lb/acre) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops the annual cadmium application rate does not exceed 0.5 kg/ha (0.45 lb/acre). the following:

ANNUAL CADMIUM APPLICATION RATE  
(kilograms per hectare)

Present to June 30, 1984	2.0
July 1, 1984 to December 31, 1986	1.25
Beginning January 1, 1987	0.5

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6591  
6592  
6593  
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C) The cumulative application of cadmium from waste does not exceed the levels in either subsection (c)(1)(C)(i) or (c)(1)(C)(ii) of this Section.

i) Maximum cumulative application of cadmium.

MAXIMUM CUMULATIVE APPLICATION  
OF CADMIUM  
(kilograms per hectare)

FOR BACKGROUND SOIL pH LESS THAN 6.5

Soil cation exchange capacity  
(milliequivalents per 100 grams)

Less than 5	5
5 to 15	5

Greater than 15 5

6597

FOR BACKGROUND SOIL pH GREATER THAN 6.5

Soil cation exchange capacity  
(milliequivalents per 100 grams)

Less than 5	5
5 to 15	10
Greater than 15	20

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6599  
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6604

- ii) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below (provided, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown):

MAXIMUM CUMULATIVE APPLICATION  
OF CADMIUM  
(kilograms per hectare)

FOR BACKGROUND SOIL pH LESS THAN 6.5  
WITH pH ADJUSTMENT

Soil ~~cation~~Cation exchange capacity  
(milliequivalents per 100 grams)

Less than 5	5
5 to 15	10
Greater than 15	20

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- 2) Cadmium limitation for crops for animal feed. Application of waste must comply with all of the following conditions:
  - A) The only food chain crop produced is animal feed;
  - B) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later and this pH level is maintained whenever food chain crops are grown;
  - C) There is a facility operating plan that demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to

6619 safeguard against possible health hazards from cadmium entering  
6620 the food chain that may result from alternative land uses; and

- 6621  
6622 D) Future property owners are notified by a stipulation in the land  
6623 record or property deed that states that the property has received  
6624 waste at high cadmium application rates and that food chain crops  
6625 must not be grown except in compliance with subsection (c)(2) of  
6626 this Section.  
6627

6628 BOARD NOTE: As required by Section 725.173, if an owner or operator grows food chain  
6629 crops on his land treatment facility, he must place the information developed in this Section in  
6630 the operating record of the facility.

6631  
6632 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
6633

6634 **Section 725.378 Unsaturated Zone (Zone of Aeration) Monitoring**

- 6635  
6636 a) The owner or operator must have in writing, and must implement, an unsaturated  
6637 zone monitoring plan that is designed to accomplish the following:  
6638  
6639 1) It must detect the vertical migration of hazardous waste and hazardous  
6640 waste constituents under the active portion of the land treatment facility,  
6641 and  
6642  
6643 2) It must provide information on the background concentrations of the  
6644 hazardous waste and hazardous waste constituents in similar but  
6645 untreated soil nearby. This background monitoring must be conducted  
6646 before or in conjunction with the monitoring required under subsection  
6647 (a)(1) of this Section.  
6648  
6649 b) The unsaturated zone monitoring plan must include, at a minimum, both of the  
6650 following:  
6651  
6652 1) Soil monitoring using soil cores, and  
6653  
6654 2) Soil-pore water monitoring using devices, such as lysimeters.  
6655  
6656 c) To comply with subsection (a)(1) of this Section, the owner or operator must  
6657 demonstrate in his unsaturated zone monitoring plan that ensures the following:  
6658  
6659 1) The depth at which soil and soil-pore water samples are to be taken is  
6660 below the depth to which the waste is incorporated into the soil;  
6661

- 6662 2) The number of soil and soil-pore water samples to be taken is based on the  
6663 variability of the following:
  - 6664 A) The hazardous waste constituents (as identified in Section  
6665 725.373(a) and(b)) in the waste and in the soil, and
  - 6666 B) The soil types; and
- 6667 3) The frequency and timing of soil and soil-pore water sampling is based on  
6668 the frequency, time, and rate of waste application, proximity to ground  
6669 water, and soil permeability.
- 6670 d) The owner or operator must keep at the facility its unsaturated zone monitoring  
6671 plan and the rationale used in developing this plan.
- 6672 e) The owner or operator must analyze the soil and soil-pore water samples for the  
6673 hazardous waste constituents that were found in the waste during the waste  
6674 analysis under Section 725.373(a) and (b).

6675 BOARD NOTE: As required by Section 725.173, the owner or operator must  
6676 place all data and information developed under this Section in the operating  
6677 record of the facility.

6678 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

6679 **Section 725.380 Closure and Post-Closure Care**

- 6680 a) In the closure plan under Section 725.212 and the post-closure plan under Section  
6681 725.218 the owner or operator must address the following objectives and indicate  
6682 how they will be achieved:
  - 6683 1) Control of the migration of hazardous waste and hazardous waste  
6684 constituents from the treated area into the groundwater;
  - 6685 2) Control of the release of contaminated runoff from the facility into surface  
6686 water;
  - 6687 3) Control of the release of airborne particulate contaminants caused by wind  
6688 erosion; and
  - 6689 4) Compliance with Section 725.376 concerning the growth of food-chain  
6690 crops.

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- b) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of subsection (a) ~~of this Section~~:
    - 1) The type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;
    - 2) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;
    - 3) The site location, topography, and surrounding land use with respect to the potential effects of pollutant migration (e.g., proximity to groundwater, surface water, and drinking water sources);
    - 4) Climate, including amount, frequency, and pH of precipitation;
    - 5) Geological and soil profiles and surface and subsurface hydrology of the site and soil characteristics, including cation exchange capacity, total organic carbon, and pH;
    - 6) Unsaturated zone monitoring information obtained under Section 725.378; and
    - 7) The type, concentration, and depth of migration of hazardous waste constituents in the soil, as compared to their background concentrations.
  - c) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of subsection (a) ~~of this Section~~:
    - 1) Removal of contaminated soils;
    - 2) Placement of a final cover, considering the following:
      - A) Functions of the cover (e.g., infiltration control, erosion and runoff control, and wind erosion control); and
      - B) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and
    - 3) Monitoring of groundwater.
  - d) In addition to the requirements of Subpart G of this Part during the closure period the owner or operator of a land treatment facility must do the following:

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- 1) It must continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;
  - 2) It must maintain the run-on control system required under Section 725.372(b);
  - 3) It must maintain the run-off management system required under Section 725.372(c); and
  - 4) It must control wind dispersal of particulate matter that may be subject to wind dispersal.
- e) For the purpose of complying with Section 725.215, when closure is completed the owner or operator may submit to the Agency certification both by the owner or operator and by an independent, qualified soil scientist, in lieu of a qualified Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.
- f) In addition to the requirements of Section 725.217, during the post-closure care period the owner or operator of a land treatment unit must fulfill the following requirements:
- 1) It must continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;
  - 2) It must restrict access to the unit as appropriate for its post-closure use;
  - 3) It must assure that growth of food chain crops complies with Section 725.376; and
  - 4) It must control wind dispersal of hazardous waste.

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

#### SUBPART N: LANDFILLS

##### **Section 725.401 Design Requirements**

- a) The owner or operator of each new landfill unit, each lateral expansion of a landfill unit, and each replacement of an existing landfill unit must install two or

6791 more liners and a leachate collection and removal system above and between such  
6792 liners, and operate the leachate collection and removal system, in accordance with  
6793 35 Ill. Adm. Code 724.401(c), unless exempted by 35 Ill. Adm. Code 724.401(d),  
6794 (e) or (f).  
6795

6796 b) The owner or operator of each unit referred to in subsection (a) ~~of this Section~~  
6797 must notify the Agency at least 60 days prior to receiving waste. The owner or  
6798 operator of each facility submitting notice must file a Part B application within six  
6799 months of the receipt of such notice.  
6800

6801 c) The owner or operator of any replacement landfill unit is exempt from subsection  
6802 (a) ~~of this Section~~ if both of the following are true:

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6804 1) The existing unit was constructed in compliance with the design standards  
6805 of 35 Ill. Adm. Code 724.401(c), (d), and (e); and  
6806

6807 BOARD NOTE: The cited subsections implemented the design standards  
6808 of sections 3004(o)(1)(A)(i) and (o)(5) of RCRA ~~the Resource~~  
6809 ~~Conservation and Recovery Act~~ (42 USC 6924(o)(1)(A)(i) and (o)(5)).  
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6811 2) There is no reason to believe that the liner is not functioning as designed.  
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6813 d) The Agency must not require a double liner as set forth in subsection (a) ~~of this~~  
6814 ~~Section~~ for any monofill, if the following conditions are fulfilled:

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6816 1) The monofill contains only hazardous wastes from foundry furnace  
6817 emission controls or metal casting molding sand, and such wastes do not  
6818 contain constituents that render the wastes hazardous for reasons other the  
6819 toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA  
6820 hazardous waste numbers D004 through D017; and  
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6822 2) Alternative demonstration.

6823  
6824 A) Liner and location requirements.

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6826 i) The monofill has at least one liner for which there is no  
6827 evidence that such liner is leaking;

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6829 ii) The monofill is located more than one-quarter mile from an  
6830 underground source of drinking water (as that term is  
6831 defined in 35 Ill. Adm. Code 702.110); and

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6833 iii) The monofill is in compliance with generally applicable

groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a) ~~of this Section~~, and in good faith compliance with subsection (a) ~~of this Section~~ and with guidance documents governing liners and leachate collection systems under subsection (a) ~~of this Section~~, the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) ~~of this Section~~ when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) ~~of this Section~~ is leaking.

f) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

g) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24 hour, 25-year storm.

h) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

i) The owner or operator of a landfill containing hazardous waste that is subject to dispersal by wind must cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

BOARD NOTE: As required by Section 725.113, the waste analysis plan must include analyses needed to comply with Sections 725.412, 725.413, and 725.414. As required by Section 725.173, the owner or operator must place the results of these analyses in the operating record of the facility.

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

**Section 725.402 Action Leakage Rate**

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- a) The owner or operator of landfill units subject to Section 725.401(a) must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.401(b). Within 60 days after receipt of the notification, the Agency must establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.
- b) The Agency must approve an action leakage rate for landfill units subject to Section 725.401(a). The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.); construction, operation, and location of the LDS; waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).
- c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under Section 725.404 to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period, and monthly during the post-closure care period unless the Agency approves a different period under Section 725.404(b).
- d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

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

**Section 725.403 Response Actions**

- a) The owner or operator of landfill units subject to Section 725.401(a) must develop and keep on site until closure of the facility a response action plan. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

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- b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do each of the following:
- 1) Notify the Agency in writing of the exceedance within seven days after the determination;
  - 2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;
  - 3) Determine to the extent practicable the location, size, and cause of any leak;
  - 4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;
  - 5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
  - 6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) ~~of this Section~~, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.
- c) To make the leak or remediation determinations in subsections (b)(3) through (b)(5) ~~of this Section~~, the owner or operator must do either of the following:
- 1) Perform the following assessments:
    - A) Assess the source of liquids and amounts of liquids by source;
    - B) Conduct a fingerprint, hazardous constituent or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
    - C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

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2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

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

**Section 725.404 Monitoring and Inspections**

a) An owner or operator required to have an LDS under Section 725.401(a) must record the amount of liquids removed from each LDS sump at least once each week during the active life and closure period.

b) After the final cover is installed, the amount of liquids removed from each LDS sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

c) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the Agency based on pump activation level, sump dimensions and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with Section 725.402(a).

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

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

**Section 725.410 Closure and Post-Closure Care**

a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to

7006 accomplish the following:

- 7007
- 7008 1) It must provide long-term minimization of migration of liquids through the
- 7009 closed landfill;
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- 7011 2) It must function with minimum maintenance;
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- 7013 3) It must promote drainage and minimize erosion or abrasion of the cover;
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- 7015 4) It must accommodate settling and subsidence so that the cover's integrity
- 7016 is maintained; and
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- 7018 5) It must have a permeability less than or equal to the permeability of any
- 7019 bottom liner system or natural subsoils present.
- 7020

7021 b) After final closure, the owner or operator must comply with all post-closure

7022 requirements contained in Section 725.217 through 725.220 including

7023 maintenance and monitoring throughout the post-closure care period. The owner

7024 or operator must do the following:

- 7025
- 7026 1) It must maintain the integrity and effectiveness of the final cover,
- 7027 including making repairs to the cover as necessary to correct the effects of
- 7028 settling, subsidence, erosion, or other events;
- 7029
- 7030 2) It must maintain and monitor the LDS in accordance with 35 Ill. Adm.
- 7031 Code 724.401(c)(3)(D) and (c)(4) and Section 725.404(b), and comply
- 7032 with all other applicable LDS requirements of this Part;
- 7033
- 7034 3) It must maintain and monitor the groundwater monitoring system and
- 7035 comply with all other applicable requirements of Subpart F of this Part;
- 7036
- 7037 4) It must prevent run-on and run-off from eroding or otherwise damaging
- 7038 the final cover; and
- 7039
- 7040 5) It must protect and maintain surveyed benchmarks used in complying with
- 7041 Section 725.409.
- 7042

7043 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

7044

7045 **Section 725.412 Special Requirements for Ignitable or Reactive Wastes**

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- 7047 a) Except as provided in subsection (b) of this Section and in Section 725.416,
- 7048 ignitable or reactive waste must not be placed in a landfill, unless the waste and

7049 landfill meets all applicable requirements of 35 Ill. Adm. Code 728, and the waste  
7050 is treated, rendered or mixed before or immediately after placement in a landfill  
7051 so that both of the following conditions are fulfilled:

- 7052
- 7053 1) The resulting waste, mixture, or dissolution of material no longer meets  
7054 the definition of ignitable or reactive waste under 35 Ill. Adm. Code  
7055 721.121 or 721.123; and  
7056
- 7057 2) Section 725.117(b) is complied with.  
7058

- 7059 b) Except for prohibited wastes that remain subject to treatment standards in Subpart  
7060 D of 35 Ill. Adm. Code 728, ignitable waste in containers may be landfilled  
7061 without meeting the requirements of subsection (a) of this Section, provided that  
7062 the wastes are disposed of in such a way that they are protected from any material  
7063 or conditions that may cause them to ignite. At a minimum, ignitable wastes must  
7064 be disposed of in non-leaking containers that are carefully handled and placed so  
7065 as to avoid heat, sparks, rupture or any other condition that might cause ignition  
7066 of the wastes; must be covered daily with soil or other non-combustible material  
7067 to minimize the potential for ignition of the wastes; and must not be disposed in  
7068 cells that contain or will contain other wastes that may generate heat sufficient to  
7069 cause ignition of the waste.  
7070

7071 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
7072

7073 **Section 725.414 Special Requirements for Liquid Wastes**  
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- 7075 a) The placement of bulk or non-containerized liquid hazardous waste or hazardous  
7076 waste containing free liquids (whether or not sorbents have been added) in any  
7077 landfill is prohibited.  
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- 7079 b) Containers holding free liquids must not be placed in a landfill unless one of the  
7080 following conditions is fulfilled:  
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- 7082 1) One of the following occurs with regard to all free-standing liquid:  
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- 7084 A) It has been removed by decanting or other methods;  
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- 7086 B) It has been mixed with sorbent or solidified so that free-standing  
7087 liquid is no longer observed; or  
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- 7089 C) It has been otherwise eliminated;  
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- 7091 2) The container is very small, such as an ampule;

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- 3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
  - 4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.
- c) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
- d) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations.
- e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are one of the following: materials listed or described in subsection (e)(1) of this Section; materials that pass one of the tests in subsection (e)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.
- 1) Nonbiodegradable sorbents are the following:
    - A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon, etc.); or
    - B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

- 7135  
 7136 C) Mixtures of these nonbiodegradable materials.  
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 7138 2) Tests for nonbiodegradable sorbents.  
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 7140 A) The sorbent material is determined to be nonbiodegradable under  
 7141 ASTM Method G21-70 (1984a) (Standard Practice for  
 7142 Determining Resistance of Synthetic Polymer Materials to Fungi),  
 7143 incorporated by reference in 35 Ill. Adm. Code 720.111(a);  
 7144  
 7145 B) The sorbent material is determined to be nonbiodegradable under  
 7146 ASTM Method G22-76 (1984b) (Standard Practice for  
 7147 Determining Resistance of Plastics to Bacteria), incorporated by  
 7148 reference in 35 Ill. Adm. Code 720.111(a); or  
 7149  
 7150 C) The sorbent material is determined to be non-biodegradable under  
 7151 OECD Guideline for Testing of Chemicals, Method301B (CO<sub>2</sub>  
 7152 Evolution (Modified Sturm Test)), incorporated by reference in 35  
 7153 Ill. Adm. Code 720.111(a).  
 7154  
 7155 f) The placement of any liquid that is not a hazardous waste in a landfill is  
 7156 prohibited. (See 35 Ill. Adm. Code 729.311.)  
 7157  
 7158 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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7160 **Section 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums**  
 7161 **(Lab Packs)**  
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7163 Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill  
 7164 if the following requirements are met:  
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- 7166 a) Hazardous waste must be packaged in non-leaking inside containers. The inside  
 7167 containers must be of a design and constructed of a material that will not react  
 7168 dangerously with, be decomposed by, or be ignited by the waste held therein.  
 7169 Inside containers must be tightly and securely sealed. The inside containers must  
 7170 be of the size and type specified in the USDOT hazardous materials regulations  
 7171 (49 CFR 173 (Shippers – General Requirements for Shipments and Packages),  
 7172 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each  
 7173 incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations  
 7174 specify a particular inside container for the waste.  
 7175  
 7176 b) The inside containers must be overpacked in an open head USDOT-specification  
 7177 metal shipping container (49 CFR 178 (Specifications for Packagings) and 179

- 7178 (Specifications for Tank Cars), of no more than 416 ~~liter~~ (110 gallon) capacity  
 7179 and surrounded by, at a minimum, a sufficient quantity of sorbent material,  
 7180 determined to be nonbiodegradable in accordance with 35 Ill. Adm. Code  
 7181 725.414(e) to completely sorb all of the liquid contents of the inside containers.  
 7182 The metal outer container must be full after packing with inside containers and  
 7183 sorbent material.  
 7184  
 7185 c) The sorbent material used must not be capable of reacting dangerously with,  
 7186 being decomposed by, or being ignited by the contents of the inside containers, in  
 7187 accordance with Section 725.117(b).  
 7188  
 7189 d) Incompatible wastes, as defined in 35 Ill. Adm. Code 720.110, must not be placed  
 7190 in the same outside container.  
 7191  
 7192 e) Reactive waste, other than cyanide- or sulfide-bearing waste, as defined in 35 Ill.  
 7193 Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to  
 7194 packaging in accordance with subsections (a) through (d) ~~of this Section~~.  
 7195 Cyanide- or sulfide-bearing reactive waste may be packaged in accordance with  
 7196 subsections (a) through (d) ~~of this Section~~ without first being treated or rendered  
 7197 non-reactive.  
 7198  
 7199 f) Such disposal is in compliance with the requirements of 35 Ill. Adm. Code 728.  
 7200 Persons that incinerate lab packs according to the requirements of 35 Ill. Adm.  
 7201 Code 728.142(c)(1) may use fiber drums in place of metal outer containers. Such  
 7202 fiber drums must meet the USDOT specifications in 49 CFR 173.12 (Exceptions  
 7203 for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm.  
 7204 Code 720.111(b), and be overpacked according to subsection (b) ~~of this Section~~.  
 7205  
 7206 g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid  
 7207 wastes or wastes containing free liquids allowed under this Section is restricted to  
 7208 labwaste and non-periodic waste, as those terms are defined in that Part.

7209  
 7210 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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7212 **SUBPART O: INCINERATORS**

7213  
 7214 **Section 725.440 Applicability**

- 7215  
 7216 a) The regulations in this Subpart O apply to owners or operators of hazardous waste  
 7217 incinerators (as defined in 35 Ill. Adm. Code 720.110), except as 35 Ill. Adm.  
 7218 Code 724.101 provides otherwise.  
 7219  
 7220 b) Integration of the MACT Standards.

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- 1) Except as provided by subsections (b)(2) and (b)(3), the standards of this Part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 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, under 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with the requirements of subpart EEE of 40 CFR 63.
  - 2) The MACT standards of subpart EEE of 40 CFR 63 do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC of this Part.
  - 3) Section 725.445, generally prohibiting burning of hazardous waste during startup and shutdown, remains in effect if the owner or operator elects to comply with 35 Ill. Adm. Code 703.320(b)(1)(A) to minimize emissions of toxic compounds from startup and shutdown.

7242 BOARD NOTE: Operating conditions used to determine effective treatment of  
7243 hazardous waste remain effective after the owner or operator demonstrates  
7244 compliance with the standards of subpart EEE of 40 CFR 63. Sections 9.1 and  
7245 39.5 of the Environmental Protection Act ~~{415 ILCS 5/9.1 and 39.5}~~ make the  
7246 federal MACT standards directly applicable to entities in Illinois and authorize  
7247 the Agency to issue permits based on the federal standards.  
7248

- 7249 c) An owner or operator of an incinerator that burns hazardous waste is exempt from  
7250 all of the requirements of this Subpart O, except Section 725.451 (Closure),  
7251 provided that the owner or operator has documented, in writing, that the waste  
7252 would not reasonably be expected to contain any of the hazardous constituents  
7253 listed in Appendix H to 35 Ill. Adm. Code 721 and such documentation is retained  
7254 at the facility, if the waste to be burned is one of the following:  
7255
- 1) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721,  
7256 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C),  
7257 or both;
  - 2) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721,  
7260 solely because it is reactive (Hazard Code R) for characteristics other than  
7261 those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5), and will not be  
7262 burned when other hazardous wastes are present in the combustion zone;  
7263

- 7264  
7265 3) It is a hazardous waste solely because it possesses the characteristic of  
7266 ignitability, corrosivity, or both, as determined by the tests for  
7267 characteristics of hazardous wastes under Subpart C of 35 Ill. Adm. Code  
7268 721; or  
7269  
7270 4) It is a hazardous waste solely because it possesses the reactivity  
7271 characteristics described by 35 Ill. Adm. Code 721.123(a)(1), (a)(2),  
7272 (a)(3), (a)(6), (a)(7), or (a)(8) and will not be burned when other hazardous  
7273 wastes are present in the combustion zone.  
7274

7275 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
7276

7277 SUBPART P: THERMAL TREATMENT  
7278

7279 **Section 725.470 Other Thermal Treatment**  
7280

7281 The regulations in this Subpart P apply to owners and operators of facilities that thermally treat  
7282 hazardous waste in devices other than enclosed devices using controlled flame combustion  
7283 except, as Section 725.101 provides otherwise. Thermal treatment in enclosed devices using  
7284 controlled flame combustion is subject to the requirements of Subpart O of this Part if the unit is  
7285 an incinerator, and Subpart H of 35 Ill. Adm. Code 726, if the unit is a boiler or industrial  
7286 furnace, as defined in 35 Ill. Adm. Code 720.110.  
7287

7288 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
7289

7290 SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT  
7291

7292 **Section 725.500 Applicability**  
7293

7294 The regulations in this Subpart Q apply to owners and operators of facilities that treat hazardous  
7295 waste by chemical, physical, or biological methods in other than tanks, surface impoundments,  
7296 and land treatment facilities, except as Section 725.101 provides otherwise. Chemical, physical,  
7297 and biological treatment of hazardous waste in tanks, surface impoundments and land treatment  
7298 facilities must be conducted in accordance with Subparts J, K, and M of this Part, respectively.  
7299

7300 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
7301

7302 SUBPART R: UNDERGROUND INJECTION  
7303

7304 **Section 725.530 Applicability**  
7305

7306 Except as Section 725.101 provides otherwise, the following apply:

- 7307
- 7308 a) The owner or operator of a facility that disposes of hazardous waste by
- 7309 underground injection is excluded from the requirements of Subparts G and H of
- 7310 this Part.
- 7311
- 7312 b) The requirements of this Subpart R apply to owners and operators of wells that
- 7313 are used to dispose of hazardous waste which are classified as Class I under 35 Ill.
- 7314 Adm. Code 704.106(a) and which are classified as Class IV under 35 Ill. Adm.
- 7315 Code 704.106(d).
- 7316

7317 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

7318

7319 **SUBPART W: DRIP PADS**

7320

7321 **Section 725.540 Applicability**

7322

- 7323 a) The requirements of this Subpart W apply to owners and operators of facilities
- 7324 that use new or existing drip pads to convey treated wood drippage, precipitation
- 7325 or surface water run-on to an associated collection system.
- 7326
- 7327 1) An "existing drip pad" is one that fulfills the following conditions:
- 7328
- 7329 A) It was constructed before December 6, 1990; or
- 7330
- 7331 B) It was one for which the owner or operator had a design and had
- 7332 entered into binding financial or other agreements for construction
- 7333 prior to December 6, 1990.
- 7334
- 7335 2) All other drip pads are "new drip pads:".
- 7336
- 7337 3) The requirements of Section 725.543(b)(3) to install a leak collection
- 7338 system applies only to those drip pads that are constructed after December
- 7339 24, 1992, except for those constructed after December 24, 1992 for which
- 7340 the owner or operator has a design and has entered into binding financial
- 7341 or other agreements for construction prior to December 24, 1992.
- 7342
- 7343 b) The owner or operator of any drip pad that is inside or under a structure that
- 7344 provides protection from precipitation so that neither run-off nor run-on is
- 7345 generated is not subject to regulation under Section 724.672(e) or (f).
- 7346
- 7347 c) The requirements of this subsection are not applicable to the management of
- 7348 infrequent and incidental drippage in storage yards provided that the owner or
- 7349 operator maintains and complies with a written contingency plan that describes

7350 how the owner or operator will respond immediately to the discharge of  
 7351 infrequent and incidental drippage. At a minimum, the contingency plan must  
 7352 describe how the owner or operator will do the following:

- 7353
- 7354 1) Clean up the drippage;
  - 7355
  - 7356 2) Document the clean-up of the drippage;
  - 7357
  - 7358 3) Retain documentation regarding the clean-up for three years; and
  - 7359
  - 7360 4) Manage the contaminated media in a manner consistent with State and
  - 7361 federal regulations.

7362  
 7363 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

7364  
 7365 **Section 725.541 Assessment of Existing Drip Pad Integrity**

- 7366
- 7367 a) For each existing drip pad, the owner or operator must evaluate the drip pad and  
 7368 determine that it meets all of the requirements of this Subpart W, except the  
 7369 requirements for liners and leak detection systems of Section 725.543(b). ~~The~~  
 7370 ~~no~~ later than June 6, 1991, the owner or operator must obtain and keep on file at the  
 7371 facility a written assessment of the drip pad, reviewed and certified by a qualified  
 7372 Professional Engineer that attests to the results of the evaluation. The assessment  
 7373 must be reviewed, updated, and re-certified annually until all upgrades, repairs, or  
 7374 modifications necessary to achieve compliance with all the standards of Section  
 7375 725.543 are complete. The evaluation must document the extent to which the drip  
 7376 pad meets each of the design and operating standards of Section 725.543, except  
 7377 the standards for liners and leak detection systems specified in Section  
 7378 725.543(b).
  - 7379
  - 7380 b) The owner or operator must develop a written plan for upgrading, repairing and  
 7381 modifying the drip pad to meet the requirements of Section 725.543(b) and  
 7382 submit the plan to the Agency no later than two years before the date that all  
 7383 repairs, upgrades, and modifications will be complete. This written plan must  
 7384 describe all changes to be made to the drip pad in sufficient detail to document  
 7385 compliance with all the requirements of Section 725.543. The plan must be  
 7386 reviewed and certified by a qualified Professional Engineer.
  - 7387
  - 7388 c) Upon completion of all repairs and modifications, the owner or operator must  
 7389 submit to the Agency, the as-built drawings for the drip pad, together with a  
 7390 certification by a qualified Professional Engineer attesting that the drip pad  
 7391 conforms to the drawings.
  - 7392

7393 d) If the drip pad is found to be leaking or unfit for use, the owner or operator must  
7394 comply with the provisions of Section 725.543(m) or close the drip pad in  
7395 accordance with Section 725.545.  
7396

7397 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
7398

7399 **Section 725.543 Design and Operating Requirements**  
7400

7401 a) Drip pads must fulfill the following requirements:  
7402

7403 1) It must not be constructed of earthen materials, wood, or asphalt, unless  
7404 the asphalt is structurally supported;  
7405

7406 2) It must be sloped to free-drain to the associated collection system treated  
7407 wood drippage, rain, other waters, or solutions of drippage and water or  
7408 other wastes;  
7409

7410 3) It must have a curb or berm around the perimeter;  
7411

7412 4) In addition, the drip pad must fulfill the following requirements:  
7413

7414 A) It must have a hydraulic conductivity of less than or equal to  $1 \times 10^{-7}$   
7415 centimeters per second, e.g., existing concrete drip pads must be  
7416 sealed, coated, or covered with a surface material with a hydraulic  
7417 conductivity of less than or equal to  $1 \times 10^{-7}$  centimeters per second  
7418 such that the entire surface where drippage occurs or may run  
7419 across is capable of containing such drippage and mixtures of  
7420 drippage and precipitation, materials, or other wastes while being  
7421 routed to an associated collection system. This surface material  
7422 must be maintained free of cracks and gaps that could adversely  
7423 affect its hydraulic conductivity, and the material must be  
7424 chemically compatible with the preservatives that contact the drip  
7425 pad. The requirements of this provision apply only to the existing  
7426 drip pads and those drip pads for which the owner or operator elects  
7427 to comply with Section 725.542(b) instead of Section 725.542(a).  
7428

7429 B) The owner or operator must obtain and keep on file at the facility a  
7430 written assessment of the drip pad, reviewed and certified by a  
7431 qualified Professional Engineer that attests to the results of the  
7432 evaluation. The assessment must be reviewed, updated, and  
7433 recertified annually. The evaluation must document the extent to  
7434 which the drip pad meets the design and operating standards of this  
7435 Section, except for in subsection (b) of this Section.

- 7436  
7437 5) It must be of sufficient structural strength and thickness to prevent failure  
7438 due to physical contact, climatic conditions, the stress of installation, and  
7439 the stress of daily operations, e.g., variable and moving loads such as  
7440 vehicle traffic, movement of wood, etc.  
7441

7442 BOARD NOTE: In judging the structural integrity requirement of this subsection  
7443 (a), the Agency should generally consider applicable standards established by  
7444 professional organizations generally recognized by the industry, including ACI  
7445 318-83 (Building Code Requirements for Reinforced Concrete) or ASTM C 94-  
7446 90, (Standard Specification for Ready-Mixed Concrete), incorporated by  
7447 reference in 35 Ill. Adm. Code 720.111(a).  
7448

- 7449 b) If an owner or operator elects to comply with Section 725.542(a) instead of  
7450 Section 725.542(b), the drip pad must have the following features:  
7451

- 7452 1) A synthetic liner installed below the drip pad that is designed, constructed,  
7453 and installed to prevent leakage from the drip pad into the adjacent  
7454 subsurface soil or groundwater or surface water at any time during the  
7455 active life (including the closure period) of the drip pad. The liner must be  
7456 constructed of materials that will prevent waste from being absorbed into  
7457 the liner and to prevent releases into the adjacent subsurface soil or  
7458 groundwater or surface water during the active life of the facility. The  
7459 liner must be constructed as follows:  
7460

7461 A) It must be constructed of materials that have appropriate chemical  
7462 properties and sufficient strength and thickness to prevent failure  
7463 due to pressure gradients (including static head and external  
7464 hydrogeologic forces), physical contact with the waste or drip pad  
7465 leakage to which they are exposed, climatic conditions, the stress  
7466 of installation, and the stress of daily operation (including stresses  
7467 from vehicular traffic on the drip pad);  
7468

7469 B) It must be placed upon a foundation or base capable of providing  
7470 support to the liner and resistance to pressure gradients above and  
7471 below the liner to prevent failure of the liner due to settlement,  
7472 compression, or uplift; and  
7473

7474 C) It must be installed to cover all surrounding earth that could come  
7475 in contact with the waste or leakage; and  
7476

- 7477 2) A leakage detection system immediately above the liner that is designed,  
7478 constructed, maintained, and operated to detect leakage from the drip pad.

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The leakage detection system must be constructed as follows:

- A) It must be constructed of materials that fulfill the following requirements:
  - i) They are chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and
  - ii) They are of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and
- B) It must be designed and operated to function without clogging through the scheduled closure of the drip pad; and
- C) It must be designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

3) A leakage collection system immediately above the liner that is designed, constructed, maintained, and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.

BOARD NOTE: See subsection (m) ~~of this Section~~ for remedial action required if deterioration or leakage is detected.

d) The drip pad and associated collection system must be designed and operated to convey, drain and collect liquid resulting from drippage or precipitation in order to prevent run-off.

e) Unless the drip pad is protected by a structure, as described in Section 725.540(b), the owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain any run-on that might enter the system.

f) Unless the drip pad is protected by a structure or cover, as described in Section

- 7522 725.540(b), the owner or operator must design, construct, operate, and maintain a  
7523 run-off management system to collect and control at least the water volume  
7524 resulting from a 24-hour, 25-year storm.  
7525
- 7526 g) The drip pad must be evaluated to determine that it meets the requirements of  
7527 subsections (a) through (f) of this Section. The owner or operator must obtain a  
7528 statement from a qualified, Professional Engineer certifying that the drip pad  
7529 design meets the requirements of this Section.  
7530
- 7531 h) Drillage and accumulated precipitation must be removed from the associated  
7532 collection system as necessary to prevent overflow onto the drip pad.  
7533
- 7534 i) The drip pad surface must be cleaned thoroughly at least once every seven days  
7535 using an appropriate and effective cleaning technique, including but not limited  
7536 to, rinsing, washing with detergents or other appropriate solvents, or steam  
7537 cleaning, with residues being properly managed, such that accumulated residues  
7538 of hazardous waste or other materials are removed as to allow weekly inspections  
7539 of the entire drip pad surface without interference or hindrance from accumulated  
7540 residues of hazardous waste or other materials on the drip pad. The owner or  
7541 operator must document, in the facility's operating log, the date and time of each  
7542 cleaning and the cleaning procedure.  
7543
- 7544 j) Drip pads must be operated and maintained in a manner to minimize tracking of  
7545 hazardous waste or hazardous waste constituents off the drip pad as a result of  
7546 activities by personnel or equipment.  
7547
- 7548 k) After being removed from the treatment vessel, treated wood from pressure and  
7549 non-pressure processes must be held on the drip pad until drillage has ceased.  
7550 The owner or operator must maintain records sufficient to document that all  
7551 treated wood is held on the pad, in accordance with this Section, following  
7552 treatment.  
7553
- 7554 l) Collection and holding units associated with run-on and run-off control systems  
7555 must be emptied or otherwise managed as soon as possible after storms to  
7556 maintain design capacity of the system.  
7557
- 7558 m) Throughout the active life of the drip pad, if the owner or operator detects a  
7559 condition that may have caused or has caused a release of hazardous waste, the  
7560 condition must be repaired within a reasonably prompt period of time following  
7561 discovery, in accordance with the following procedures:  
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- 7563 1) Upon detection of a condition that may have caused or has caused a  
7564 release of hazardous waste (e.g., upon detection of leakage in the leak

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detection system), the owner or operator must perform the following acts:

- A) It must enter a record of the discovery in the facility operating log;
- B) It must immediately remove from service the portion of the drip pad affected by the condition;
- C) It must determine what steps must be taken to repair the drip pad, clean up any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs;
- D) Within 24 hours after discovery of the condition, the owner or operator must notify the Agency of the condition and, within 10 working days, provide written notice to the Agency with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

2) The Agency must: review the information submitted; make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete; and notify the owner or operator of the determination and the underlying rationale in writing.

3) Upon completing all repairs and clean up, the owner or operator must notify the Agency in writing and provide a certification, signed by an independent, qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with subsection (m)(1)(D) of this Section.

n) The owner or operator must maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

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

**SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS**

**Section 725.930 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 725.101).

b) Except for Section 725.934(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 in one of the following:

1) A unit that is subject to the permitting requirements of 35 Ill. Adm. Code 702, 703, and 705;

2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 35 Ill. Adm. Code ~~722.117722.134(a)~~ (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of 35 Ill. Adm. Code 702, 703, and 705; or

3) A unit that is exempt from permitting under the provisions of 35 Ill. Adm. Code ~~722.117722.134(a)~~ (i.e., a "90-day" tank or container) and which is not a recycling unit under the requirements of 35 Ill. Adm. Code 721.106.

BOARD NOTE: The requirements of Sections 725.932 through 725.936 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 and 725.101(c) are not affected by these requirements.

c) Agency decisions pursuant to this Part must be made in writing, are in the nature of permit decisions pursuant to Section 39 of the Environmental Protection Act and may be appealed to the Board pursuant to 35 Ill. Adm. Code 105.

d) 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 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 725.931 Definitions**

7651  
7652 As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given  
7653 them in 35 Ill. Adm. Code 724.931, section 1004 of the Resource Conservation and Recovery  
7654 Act, incorporated by reference in 35 Ill. Adm. Code 720.111, and 35 Ill. Adm. Code 720 through  
7655 728, and 738.

7656  
7657 "BTU" means British thermal unit.

7658  
7659 "ft" means foot.

7660  
7661 "h" means hour.

7662  
7663 "kg" means kilogram.

7664  
7665 "kPa" means kilopascals.

7666  
7667 "lb" means pound.

7668  
7669 "m" means meter.

7670  
7671 "Mg" means Megagrams, or metric tonnes.

7672  
7673 "MJ" means Megajoules, or ten to the sixth Joules.

7674  
7675 "MW" means Megawatts.

7676  
7677 "ppmv" means parts per million by volume.

7678  
7679 "ppmw" meant parts per million by weight.

7680  
7681 "s" means second.

7682  
7683 "scm" means standard cubic meter.

7684  
7685 "scft" meant standard cubic foot.

7686  
7687 "yr" means year.

7688  
7689 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

7690  
7691 **Section 725.932 Standards: Process Vents**

7692  
7693 a) The owner or operator of a facility with process vents associated with distillation,

7694 fractionation, thin-film evaporation, solvent extraction, or air or steam stripping  
7695 operations managing hazardous wastes with organic concentrations of at least 10  
7696 ppmw must do either of the following:

- 7697
- 7698 1) Reduce total organic emissions from all affected process vents at the  
7699 facility below 1.4 kg/h (3 lb/h) and 2.8 Mg/yr (3.1 tons/yr); or
  - 7700
  - 7701 2) Reduce, by use of a control device, total organic emissions from all  
7702 affected process vents at the facility by 95 weight percent.
  - 7703
  - 7704 b) If the owner or operator installs a closed-vent system and control device to  
7705 comply with the provisions of subsection (a) of this Section, the closed-vent  
7706 system and control device must meet the requirements of Section 725.933.
  - 7707
  - 7708 c) Determinations of vent emissions and emission reductions or total organic  
7709 compound concentrations achieved by add-on control devices must be based on  
7710 either engineering calculations or performance tests. If performance tests are used  
7711 to determine vent emissions, emission reductions, or total organic compound  
7712 concentrations achieved by add-on control devices, the performance tests must  
7713 conform with the requirements of Section 725.934(c).
  - 7714
  - 7715 d) When an owner or operator and the Agency do not agree on determinations of  
7716 vent emissions or emission reductions or total organic compound concentrations  
7717 achieved by add-on control devices based on engineering calculations, the test  
7718 methods in Section 725.934(c) must be used to resolve the disagreement.
  - 7719

7720 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

7721

7722 **Section 725.933 Standards: Closed-Vent Systems and Control Devices**

- 7723
- 7724 a) Compliance Required.
  - 7725
  - 7726 1) Owners or operators of closed-vent systems and control devices used to  
7727 comply with provisions of this Part must comply with the provisions of  
7728 this Section.
  - 7729
  - 7730 2) Implementation Schedule.
  - 7731
  - 7732 A) The owner or operator of an existing facility that cannot install a  
7733 closed-vent system and control device to comply with the  
7734 provisions of this Subpart AA on the effective date that the facility  
7735 becomes subject to the provisions of this Subpart AA must prepare  
7736 an implementation schedule that includes dates by which the

7737 closed-vent system and control device will be installed and in  
7738 operation. The controls must be installed as soon as possible, but  
7739 the implementation schedule may allow up to 30 months after the  
7740 effective date that the facility becomes subject to this Subpart AA  
7741 for installation and startup.  
7742

7743 B) Any unit that ~~begins operation after December 21, 1990, and which~~  
7744 is subject to the provisions of this Subpart AA when operation  
7745 begins, must comply with the rules immediately (i.e., must have  
7746 control devices installed and operating on startup of the affected  
7747 unit); the 30-month implementation schedule does not apply.  
7748

7749 C) The owner or operator of any facility in existence on the effective  
7750 date of a statutory or regulatory amendment that renders the  
7751 facility subject to this Subpart AA must comply with all  
7752 requirements of this Subpart AA as soon as practicable but no later  
7753 than 30 months after the effective date of the amendment. When  
7754 control equipment required by this Subpart AA cannot be installed  
7755 and begin operation by the effective date of the amendment, the  
7756 facility owner or operator must prepare an implementation  
7757 schedule that includes the following information: specific calendar  
7758 dates for award of contracts or issuance of purchase orders for the  
7759 control equipment, initiation of on-site installation of the control  
7760 equipment, completion of the control equipment installation, and  
7761 performance of any testing to demonstrate that the installed  
7762 equipment meets the applicable standards of this Subpart AA. The  
7763 owner or operator must enter the implementation schedule in the  
7764 operating record or in a permanent, readily available file located at  
7765 the facility.  
7766

7767 D) An owner or operator of a facility or unit that becomes newly  
7768 subject to the requirements of this Subpart AA ~~after December 8,~~  
7769 ~~1997,~~ due to an action other than those described in subsection  
7770 (a)(2)(iii) must comply with all applicable requirements  
7771 immediately (i.e., the facility or unit must have control devices  
7772 installed and operating on the date the facility or unit becomes  
7773 subject to this Subpart AA; the 30-month implementation schedule  
7774 does not apply).  
7775

7776 b) A control device involving vapor recovery (e.g., a condenser or adsorber) must be  
7777 designed and operated to recover the organic vapors vented to it with an  
7778 efficiency of 95 weight percent or greater unless the total organic emission limits  
7779 of Section 725.932(a)(1) for all affected process vents is attained at an efficiency

- 7780 less than 95 weight percent.  
 7781  
 7782 c) An enclosed combustion device (e.g., a vapor incinerator, boiler, or process  
 7783 heater) must be designed and operated to reduce the organic emissions vented to it  
 7784 by 95 weight percent or greater; to achieve a total organic compound  
 7785 concentration of 20 ppmv, expressed as the sum of the actual compounds, not  
 7786 carbon equivalents, on a dry basis corrected to three percent oxygen; or to provide  
 7787 a minimum residence time of 0.50 seconds at a minimum temperature of 760  
 7788 degrees Celsius (°C). If a boiler or process heater is used as the control device,  
 7789 then the vent stream must be introduced into the flame combustion zone of the  
 7790 boiler or process heater.  
 7791  
 7792 d) Flares.  
 7793  
 7794 1) A flare must be designed for and operated with no visible emissions as  
 7795 determined by the methods specified in subsection (e)(1) except for  
 7796 periods not to exceed a total of five minutes during any two consecutive  
 7797 hours.  
 7798  
 7799 2) A flare must be operated with a flame present at all times, as determined  
 7800 by the methods specified in subsection (f)(2)(C).  
 7801  
 7802 3) A flare must be used only if the net heating value of the gas being  
 7803 combusted is 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-  
 7804 assisted or air-assisted, or if the net heating value of the gas being  
 7805 combusted is 7.45 MJ/scm (200 Btu/scf) or greater if the flare is  
 7806 nonassisted. The net heating value of the gas being combusted must be  
 7807 determined by the methods specified in subsection (e)(2).  
 7808  
 7809 4) Exit Velocity.  
 7810  
 7811 A) A steam-assisted or nonassisted flare must be designed for and  
 7812 operated with an exit velocity, as determined by the methods  
 7813 specified in subsection (e)(3), less than 18.3 m/s (60 ft/s), except as  
 7814 provided in subsections (d)(4)(B) and (d)(4)(C).  
 7815  
 7816 B) A steam-assisted or nonassisted flare designed for and operated  
 7817 with an exit velocity, as determined by the methods specified in  
 7818 subsection (e)(3), equal to or greater than 18.3 m/s (60 ft/s) but less  
 7819 than 122 m/s (400 ft/s) is allowed if the net heating value of the gas  
 7820 being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).  
 7821  
 7822 C) A steam-assisted or nonassisted flare designed for and operated

7823 with an exit velocity, as determined by the methods specified in  
 7824 subsection (e)(3), less than the velocity, V as determined by the  
 7825 method specified in subsection (e)(4) and less than 122 m/s (400  
 7826 ft/s) is allowed.

7827  
 7828 5) An air-assisted flare must be designed and operated with an exit velocity  
 7829 less than the velocity, V, as determined by the method specified in  
 7830 subsection (e)(5).

7831  
 7832 6) A flare used to comply with this Section must be steam-assisted, air-  
 7833 assisted, or nonassisted.

7834 e) Compliance Determination and Equations.

7835 1) Reference Method 22 (Visual Determination of Fugitive Emissions from  
 7836 Material Sources and Smoke Emissions from Flares) in appendix A to 40  
 7837 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code  
 7838 720.111(b), must be used to determine the compliance of a flare with the  
 7839 visible emission provisions of this Subpart AA. The observation period is  
 7840 two hours and must be used according to Reference Method 22.  
 7841

7842 2) The net heating value of the gas being combusted in a flare must be  
 7843 calculated using the following equation:  
 7844  
 7845  
 7846

$$H_T = K \times \sum_{i=1}^n C_i \times H_i$$

7847  
 7848 Where:

7849  $H_T$  = the net heating value of the sample in MJ/scm; where the  
 7850 net enthalpy per mole of offgas is based on combustion at  
 25° C and 760 mm Hg, but the standard temperature for  
 determining the volume corresponding to 1 mole is 20  
 °C;

$K$  =  $1.74 \times 10^{-7}$  (1/ppm) (g mol/scm) (MJ/kcal) where the  
 standard temperature for (g mol/scm) is 20° C;

$\sum X_i$  = the sum of the values of X for each component i, from  
 i=1 to n;

$C_i$  = the concentration of sample component i in ppm on a wet  
 basis, as measured for organics by Reference Method 18  
 (Measurement of Gaseous Organic Compound Emissions  
 by Gas Chromatography) in appendix A to 40 CFR 60  
 (Test Methods), and for carbon monoxide, by ASTM D

1946-90 (Standard Practice for Analysis of Reformed Gas by Gas Chromatography), each incorporated by reference in 35 Ill. Adm. Code 720.111; and

$H_i$  = the net heat of combustion of sample component  $i$ , kcal/gmol at 25° C and 760 mm Hg. The heats of combustion must be determined using ASTM D 2382-88 (Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)), incorporated by reference in 35 Ill. Adm. Code 720.111(a), if published values are not available or cannot be calculated.

7851  
 7852 3) The actual exit velocity of a flare must be determined by dividing the  
 7853 volumetric flow rate (in units of standard temperature and pressure), as  
 7854 determined by Reference Methods 2 (Determination of Stack Gas Velocity  
 7855 and Volumetric Flow Rate (Type S Pitot Tube)), 2A (Direct Measurement  
 7856 of Gas Volume through Pipes and Small Ducts), 2C (Determination of Gas  
 7857 Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard  
 7858 Pitot Tube)), or 2D (Measurement of Gas Volume Flow Rates in Small  
 7859 Pipes and Ducts) in appendix A to 40 CFR 60 (Test Methods),  
 7860 incorporated by reference in 35 Ill. Adm. Code 720.111(b), as appropriate,  
 7861 by the unobstructed (free) cross-sectional area of the flare tip.

7862  
 7863 4) The maximum allowed velocity in m/s,  $V$  for a flare complying with  
 7864 subsection (d)(4)(C) must be determined by the following equation:  
 7865

$$\log_{10}(V_{\max}) = \frac{H_T + 28.8}{31.7}$$

7866  
 7867  
 7868 Where:

$\log_{10}$  = logarithm to the base 10; and  
 $H_T$  = the net heating value as determined in subsection (e)(2).

7870  
 7871 5) The maximum allowed velocity in m/s,  $V$ , for an air-assisted flare must be  
 7872 determined by the following equation:  
 7873

$$V = 8.706 + 0.7084 H_T$$

7874  
 7875  
 7876 Where:

$H_T$  = the net heating value as determined in subsection (e)(2).

7877  
 7878

- 7879 f) The owner or operator must monitor and inspect each control device required to  
7880 comply with this Section to ensure proper operation and maintenance of the  
7881 control device by implementing the following requirements:  
7882
- 7883 1) Install, calibrate, maintain, and operate according to the manufacturer's  
7884 specifications a flow indicator that provides a record of vent stream flow  
7885 from each affected process vent to the control device at least once every  
7886 hour. The flow indicator sensor must be installed in the vent stream at the  
7887 nearest feasible point to the control device inlet but before being combined  
7888 with other vent streams.  
7889
- 7890 2) Install, calibrate, maintain, and operate according to the manufacturer's  
7891 specifications a device to continuously monitor control device operation,  
7892 as specified below:  
7893
- 7894 A) For a thermal vapor incinerator, a temperature monitoring device  
7895 equipped with a continuous recorder. The device must have  
7896 accuracy of  $\pm 1$  percent of the temperature being monitored in  $^{\circ}\text{C}$  or  
7897  $\pm 0.5^{\circ}\text{C}$ , whichever is greater. The temperature sensor must be  
7898 installed at a location in the combustion chamber downstream of  
7899 the combustion zone.  
7900
- 7901 B) For a catalytic vapor incinerator, a temperature monitoring device  
7902 equipped with a continuous recorder. The device must be capable  
7903 of monitoring temperature at two locations and have an accuracy  
7904 of  $\pm 1$  percent of the temperature being monitored in  $^{\circ}\text{C}$  or  $\pm 0.5^{\circ}\text{C}$ ,  
7905 whichever is greater. One temperature sensor must be installed in  
7906 the vent stream at the nearest feasible point to the catalyst bed inlet  
7907 and a second temperature sensor must be installed in the vent  
7908 stream at the nearest feasible point to the catalyst bed outlet.  
7909
- 7910 C) For a flare, a heat sensing monitoring device equipped with a  
7911 continuous recorder that indicates the continuous ignition of the  
7912 pilot flame.  
7913
- 7914 D) For a boiler or process heater having a design heat input capacity  
7915 less than 44 MW, a temperature monitoring device equipped with a  
7916 continuous recorder. The device must have an accuracy of  $\pm 1$   
7917 percent of the temperature being monitored in  $^{\circ}\text{C}$  or  $\pm 0.5^{\circ}\text{C}$ ,  
7918 whichever is greater. The temperature sensor must be installed at a  
7919 location in the furnace downstream of the combustion zone.  
7920
- 7921 E) For a boiler or process heater having a design heat input capacity

7922 greater than or equal to 44 MW, a monitoring device equipped  
7923 with a continuous recorder to measure parameters that indicate  
7924 good combustion operating practices are being used.  
7925

7926 F) For a condenser, either of the following:  
7927

7928 i) A monitoring device equipped with a continuous recorder  
7929 to measure the concentration level of the organic  
7930 compounds in the exhaust vent stream from the condenser;  
7931 or  
7932

7933 ii) A temperature monitoring device equipped with a  
7934 continuous recorder. The device must be capable of  
7935 monitoring temperature with an accuracy of  $\pm 1$  percent of  
7936 the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  
7937  $\pm 0.5^{\circ}\text{C}$ , whichever is greater. The temperature sensor must  
7938 be installed at a location in the exhaust vent stream from  
7939 the condenser exit (i.e., product side).  
7940

7941 G) For a carbon adsorption system, such as a fixed-bed carbon  
7942 adsorber that regenerates the carbon bed directly in the control  
7943 device, either of the following:  
7944

7945 i) A monitoring device equipped with a continuous recorder  
7946 to measure the concentration level of the organic  
7947 compounds in the exhaust vent stream from the carbon bed;  
7948 or  
7949

7950 ii) A monitoring device equipped with a continuous recorder  
7951 to measure a parameter that indicates the carbon bed is  
7952 regenerated on a regular, predetermined time cycle.  
7953

7954 3) Inspect the readings from each monitoring device required by subsections  
7955 (f)(1) and (f)(2) at least once each operating day to check control device  
7956 operation and, if necessary, immediately implement the corrective  
7957 measures necessary to ensure the control device operates in compliance  
7958 with the requirements of this Section.  
7959

7960 g) An owner or operator using a carbon adsorption system such as a fixed-bed  
7961 carbon adsorber that regenerates the carbon bed directly onsite in the control  
7962 device must replace the existing carbon in the control device with fresh carbon at  
7963 a regular, predetermined time interval that is no longer than the carbon service life  
7964 established as a requirement of Section 725.935(b)(4)(C)(vi).

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- h) An owner or operator using a carbon adsorption system, such as a carbon canister, that does not regenerate the carbon bed directly onsite in the control device must replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the following procedures:
  - 1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency must be daily or at an interval no greater than 20 percent of the time required to consume the total carbon working capacity established as a requirement of Section 725.935(b)(4)(C)(vii), whichever is longer.
  - 2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of Section 725.935(b)(4)(C)(vii).
  
- i) An owner or operator of an affected facility seeking to comply with the provisions of this Part by using a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system is required to develop documentation including sufficient information to describe the control device operation and identify the process parameter or parameters that indicate proper operation and maintenance of the control device.
  
- j) A closed-vent system must meet either of the following design requirements:
  - 1) A closed-vent system must be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background, as determined by the methods specified at Section 725.934(b), and by visual inspections; or
  - 2) A closed-vent system must be designed to operate at a pressure below atmospheric pressure. The system must be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.
  
- k) The owner or operator must monitor and inspect each closed-vent system required to comply with this Section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

- 8008 1) Each closed-vent system that is used to comply with subsection (j)(1) must  
8009 be inspected and monitored in accordance with the following  
8010 requirements:  
8011
- 8012 A) An initial leak detection monitoring of the closed-vent system must  
8013 be conducted by the owner or operator on or before the date that  
8014 the system becomes subject to this Section. The owner or operator  
8015 must monitor the closed-vent system components and connections  
8016 using the procedures specified in Section 725.934(b) to  
8017 demonstrate that the closed-vent system operates with no  
8018 detectable emissions, as indicated by an instrument reading of less  
8019 than 500 ppmv above background.  
8020
- 8021 B) After initial leak detection monitoring required in subsection  
8022 (k)(1)(A), the owner or operator must inspect and monitor the  
8023 closed-vent system as follows:  
8024
- 8025 i) Closed-vent system joints, seams, or other connections that  
8026 are permanently or semi-permanently sealed (e.g., a welded  
8027 joint between two sections of hard piping or a bolted and  
8028 gasketed ducting flange) must be visually inspected at least  
8029 once per year to check for defects that could result in air  
8030 pollutant emissions. The owner or operator must monitor a  
8031 component or connection using the procedures specified in  
8032 Section 725.934(b) to demonstrate that it operates with no  
8033 detectable emissions following any time the component is  
8034 repaired or replaced (e.g., a section of damaged hard piping  
8035 is replaced with new hard piping) or the connection is  
8036 unsealed (e.g., a flange is unbolted).  
8037
- 8038 ii) Closed-vent system components or connections other than  
8039 those specified in subsection (k)(1)(B)(i) must be  
8040 monitored annually and at other times as requested by the  
8041 Agency, except as provided for in subsection (n), using the  
8042 procedures specified in Section 725.934(b) to demonstrate  
8043 that the components or connections operate with no  
8044 detectable emissions.  
8045
- 8046 C) In the event that a defect or leak is detected, the owner or operator  
8047 must repair the defect or leak in accordance with the requirements  
8048 of subsection (k)(3).  
8049
- 8050 D) The owner or operator must maintain a record of the inspection

and monitoring in accordance with the requirements specified in Section 725.935.

2) Each closed-vent system that is used to comply with subsection (j)(2) must be inspected and monitored in accordance with the following requirements:

- A) The closed-vent system 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 ductwork or piping or loose connections.
- B) The owner or operator must perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the owner or operator must perform the inspections at least once every year.
- C) In the event that a defect or leak is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k)(3).
- D) The owner or operator must maintain a record of the inspection and monitoring in accordance with the requirements specified in Section 725.935.

3) The owner or operator must repair all detected defects as follows:

- A) Detectable emissions, as indicated by visual inspection or by an instrument reading greater than 500 ppmv above background, must be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in subsection (k)(3)(C).
- B) A first attempt at repair must be made no later than five calendar days after the emission is detected.
- C) Delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown, or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment must be completed by the end of the next process unit shutdown.

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- D) The owner or operator must maintain a record of the defect repair in accordance with the requirements specified in Section 725.935.
  
- l) A closed-vent system or control device used to comply with provisions of this Subpart AA must be operated at all times when emissions may be vented to it.
  
- m) The owner or operator using a carbon adsorption system to control air pollutant emissions must document that all carbon removed that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the volatile organic concentration of the carbon:
  - 1) It is regenerated or reactivated in a thermal treatment unit that meets one of the following:
    - A) The owner or operator of the unit has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart X of 35 Ill. Adm. Code 724; or
    - B) The unit is equipped with and operating air emission controls in accordance with the applicable requirements of Subparts AA and CC of this Part or 35 Ill. Adm. Code 724; or
    - C) The unit is equipped with and operating air emission controls in accordance with a federal national emission standard for hazardous air pollutants under 40 CFR 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).
  - 2) It is incinerated in a hazardous waste incinerator for which the owner or operator has done either of the following:
    - A) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart O of 35 Ill. Adm. Code 724; or
    - B) The owner or operator has designed and operates the incinerator in accordance with the interim status requirements of Subpart O of this Part.
  - 3) It is burned in a boiler or industrial furnace for which the owner or operator has done either of the following:

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- A) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart H of 35 Ill. Adm. Code 726; or
  - B) The owner or operator has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726.
- n) Any components of a closed-vent system that are designated, as described in Section 725.935(c)(9), as unsafe to monitor are exempt from the requirements of subsection (k)(1)(B)(ii) if both of the following conditions are fulfilled:
    - 1) The owner or operator of the closed-vent system has determined that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with subsection (k)(1)(B)(ii); and
    - 2) The owner or operator of the closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in subsection (k)(1)(B)(ii) as frequently as practicable during safe-to-monitor times.

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

**Section 725.934 Test Methods and Procedures**

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- a) Each owner or operator subject to the provisions of this Subpart AA must comply with the test methods and procedures requirements provided in this Section.
  - b) When a closed-vent system is tested for compliance with no detectable emissions, as required in Section 725.933(k), the test must comply with the following requirements:
    - 1) Monitoring must comply with Reference Method 21 (Determination of Volatile Organic Compound Leaks) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
    - 2) The detection instrument must meet the performance criteria of Reference Method 21.
    - 3) The instrument must be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

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- 4) Calibration gases must be:
    - A) Zero air (less than 10 ppm of hydrocarbon in air).
    - B) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.
  - 5) The background level must be determined as set forth in Reference Method 21.
  - 6) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible, as described in Reference Method 21.
  - 7) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.
- c) Performance tests to determine compliance with Section 725.932(a) and with the total organic compound concentration limit of Section 725.933(c) must comply with the following:
- 1) Performance tests to determine total organic compound concentrations and mass flow rates entering and exiting control devices must be conducted and data reduced in accordance with the following reference methods and calculation procedures:
    - A) Reference Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for velocity and volumetric flow rate.
    - B) Reference Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography) or 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for organic content. If Reference Method 25A is used, the organic hazardous air pollutant (HAP) used as the calibration gas must be the single HAP that represents the largest percent by volume of the emissions. The use of Reference Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero

8223 calibration gas when the instrument is zeroed on the most sensitive  
 8224 scale.

8225  
 8226 C) Each performance test must consist of three separate runs, each run  
 8227 conducted for at least 1 hour under the conditions that exist when  
 8228 the hazardous waste management unit is operating at the highest  
 8229 load or capacity level reasonably expected to occur. For the  
 8230 purpose of determining total organic compound concentrations and  
 8231 mass flow rates, the average of results of all runs applies. The  
 8232 average must be computed on a time-weighted basis.

8233  
 8234 D) Total organic mass flow rates must be determined by the following  
 8235 equation:

8236  
 8237 i) For a source utilizing Reference Method 18:  
 8238

8239 
$$E_h = Q_{2sd} \times \left( \sum_{i=1}^n C_i \times MW_i \right) \times 0.0416 \times 10^{-6}$$

8240  
 8241 Where:  
 8242

- $E_h$  = The total organic mass flow rate, kg/h;
- $Q_{2sd}$  = The volumetric flow rate of gases entering or exiting control device, dscm/h, as determined by Reference Method 2;
- $n$  = The number of organic compounds in the vent gas;
- $C_i$  = The organic concentration in ppm, dry basis, of compound  $i$  in the vent gas, as determined by Reference Method 18;
- $MW_i$  = The molecular weight of organic compound  $i$  in the vent gas, kg/kg-mol;
- 0.0416 = The conversion factor for molar volume, kg-mol/m<sup>3</sup>, at 293 K and 760 mm Hg; and
- 10<sup>-6</sup> = The conversion factor from ppm.

8243  
 8244 ii) For a source utilizing Reference Method 25A:  
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8246 
$$E_h = Q \times C \times MW \times 0.0416 \times 10^{-6}$$

8247  
 8248 Where:  
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- $E_h$  = The total organic mass flow rate, kg/h;

- Q = The volumetric flow rate of gases entering or exiting control device, dscm/h, as determined by Reference Method 2;
- C = The organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Reference Method 25A;
- MW = The molecular weight of propane, 44 kg/kg-mol;
- 0.0416 = The conversion factor for molar volume, kg-mol/m<sup>3</sup>, at 293 K and 760 mm Hg; and
- 10<sup>-6</sup> = The conversion factor from ppm.

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E) The annual total organic emission rate must be determined by the following equation:

$$A = F \times H$$

Where:

- A = total organic emission rate, kg/y;
- F = the total organic mass flow rate, kg/h, as calculated in subsection (c)(1)(D); and
- H = the total annual hours of operation for the affected unit, h/y.

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F) Total organic emissions from all affected process vents at the facility must be determined by summing the hourly total organic mass emissions rates (F, as determined in subsection (c)(1)(D)) and by summing the annual total organic mass emission rates (A, as determined in subsection (c)(1)(E)) for all affected process vents at the facility.

2) The owner or operator must record such process information as is necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction do not constitute representative conditions for the purpose of a performance test.

3) The owner or operator of an affected facility must provide, or cause to be provided, performance testing facilities as follows:

A) Sampling ports adequate for the test methods specified in subsection (c)(1).

- 8277 B) Safe sampling platforms.  
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 8279 C) Safe access to sampling platforms.  
 8280  
 8281 D) Utilities for sampling and testing equipment.  
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 8283 4) For the purpose of making compliance determinations, the time-weighted  
 8284 average of the results of the three runs must apply. In the event that a  
 8285 sample is accidentally lost or conditions occur in which one of the three  
 8286 runs must be discontinued because of forced shutdown, failure of an  
 8287 irreplaceable portion of the sample train, extreme meteorological  
 8288 conditions, or other circumstances beyond the owner or operator's control,  
 8289 compliance may, upon the Agency's approval, be determined using the  
 8290 average of the results of the two other runs.  
 8291  
 8292 d) To show that a process vent associated with a hazardous waste distillation,  
 8293 fractionation, thin-film evaporation, solvent extraction, or air or steam stripping  
 8294 operation is not subject to the requirements of this Subpart AA, the owner or  
 8295 operator must make an initial determination that the time-weighted, annual  
 8296 average total organic concentration of the waste managed by the waste  
 8297 management unit is less than 10 ppmw using one of the following two methods:  
 8298  
 8299 1) Direct measurement of the organic concentration of the waste using the  
 8300 following procedures:  
 8301  
 8302 A) The owner or operator must take a minimum of four grab samples  
 8303 of waste for each wastestream managed in the affected unit under  
 8304 process conditions expected to cause the maximum waste organic  
 8305 concentration.  
 8306  
 8307 B) For waste generated onsite, the grab samples must be collected at a  
 8308 point before the waste is exposed to the atmosphere, such as in an  
 8309 enclosed pipe or other closed system that is used to transfer the  
 8310 waste after generation to the first affected distillation,  
 8311 fractionation, thin-film evaporation, solvent extraction, or air or  
 8312 steam stripping operation. For waste generated offsite, the grab  
 8313 samples must be collected at the inlet to the first waste  
 8314 management unit that receives the waste provided the waste has  
 8315 been transferred to the facility in a closed system such as a tank  
 8316 truck and the waste is not diluted or mixed with other waste.  
 8317  
 8318 C) Each sample must be analyzed and the total organic concentration  
 8319 of the sample must be computed using Method 9060A (Total

Organic Carbon) of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference under 35 Ill. Adm. Code 720.111(a), or analyzed for its individual constituents.

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D) The arithmetic mean of the results of the analyses of the four samples apply for each wastestream managed in the unit in determining the time-weighted, annual average total organic concentration of the waste. The time-weighted average is to be calculated using the annual quantity of each waste stream processed and the mean organic concentration of each wastestream managed in the unit.

2) Using knowledge of the waste to determine that its total organic concentration is less than 10 ppmw. Documentation of the waste determination is required. Examples of documentation that must be used to support a determination under this subsection (d)(2) include the following:

- A) Production process information documenting that no organic compounds are used;
- B) Information that the waste is generated by a process that is identical to a process at the same or another facility that has previously been demonstrated by direct measurement to generate a wastestream having a total organic content less than 10 ppmw; or
- C) Prior speciation analysis results on the same wastestream where it is documented that no process changes have occurred since that analysis that could affect the waste total organic concentration.

e) The determination that distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with time-weighted, annual average total organic concentrations less than 10 ppmw must be made as follows:

- 1) By the effective date that the facility becomes subject to the provisions of this Subpart AA or by the date when the waste is first managed in a waste management unit, whichever is later;
- 2) For continuously generated waste, annually; and
- 3) Whenever there is a change in the waste being managed or a change in the

8363 process that generates or treats the waste.

- 8364
- 8365 f) When an owner or operator and the Agency do not agree on whether a distillation,  
8366 fractionation, thin-film evaporation, solvent extraction, or air or steam stripping  
8367 operation manages a hazardous waste with organic concentrations of at least 10  
8368 ppmw based on knowledge of the waste, the dispute may be resolved using direct  
8369 measurement, as specified in subsection (d)(1).

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8371 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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8373 **Section 725.935 Recordkeeping Requirements**

- 8374
- 8375 a) Compliance Required.

- 8376
- 8377 1) Each owner or operator subject to the provisions of this Subpart AA must  
8378 comply with the recordkeeping requirements of this Section.  
8379
- 8380 2) An owner or operator of more than one hazardous waste management unit  
8381 subject to the provisions of this Subpart AA may comply with the  
8382 recordkeeping requirements for these hazardous waste management units  
8383 in one recordkeeping system if the system identifies each record by each  
8384 hazardous waste management unit.

- 8385
- 8386 b) Owners and operators must record the following information in the facility  
8387 operating record:

- 8388
- 8389 1) For facilities that comply with the provisions of Section 725.933(a)(2), an  
8390 implementation schedule that includes dates by which the closed-vent  
8391 system and control device will be installed and in operation. The schedule  
8392 must also include a rationale of why the installation cannot be completed  
8393 at an earlier date. The implementation schedule must be in the facility  
8394 operating record by the effective date that the facility becomes subject to  
8395 the provisions of this Subpart AA.

- 8396
- 8397 2) Up-to-date documentation of compliance with the process vent standards  
8398 in Section 725.932, including the following:

- 8399
- 8400 A) Information and data identifying all affected process vents, annual  
8401 throughput and operating hours of each affected unit, estimated  
8402 emission rates for each affected vent and for the overall facility  
8403 (i.e., the total emissions for all affected vents at the facility), and  
8404 the approximate location within the facility of each affected unit  
8405 (e.g., identify the hazardous waste management units on a facility

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plot plan).

- B) Information and data supporting determination of vent emissions and emission reductions achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, determinations of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or vent stream organic compounds and concentrations) that represent the conditions that result in maximum organic emissions, such as when the waste management unit is operating at the highest load or capacity level reasonably expected to occur. If the owner or operator takes any action (e.g., managing a waste of different composition or increasing operating hours of affected waste management units) that would result in an increase in total organic emissions from affected process vents at the facility, then a new determination is required.
  
- 3) Where an owner or operator chooses to use test data to determine the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan. The test plan must include the following:
  - A) A description of how it is determined that the planned test is going to be conducted when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur. This must include the estimated or design flow rate and organic content of each vent stream and define the acceptable operating ranges of key process and control device parameters during the test program.
  
  - B) A detailed engineering description of the closed-vent system and control device including the following:
    - i) Manufacturer's name and model number of control device;
    - ii) Type of control device;
    - iii) Dimensions of the control device;
    - iv) Capacity; and
    - v) Construction materials.

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- C) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.
  - 4) Documentation of compliance with Section 725.933 must include the following information:
    - A) A list of all information references and sources used in preparing the documentation;
    - B) Records, including the dates of each compliance test required by Section 725.933(j);
    - C) If engineering calculations are used, a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts, approved by the Agency, that present basic control device design information. Documentation provided by the control device manufacturer or vendor that describes the control device design in accordance with subsections (b)(4)(C)(i) through (b)(4)(C)(vii) may be used to comply with this requirement. The design analysis must address the vent stream characteristics and control device operation parameters as specified below.
      - i) For a thermal vapor incinerator, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also establish the design minimum and average temperature in the combustion zone and the combustion zone residence time.
      - ii) For a catalytic vapor incinerator, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also establish the design minimum and average temperatures across the catalyst bed inlet and outlet.
      - iii) For a boiler or process heater, the design analysis must

- 8492 consider the vent stream composition, constituent  
 8493 concentrations, and flow rate. The design analysis must  
 8494 also establish the design minimum and average flame zone  
 8495 temperatures, combustion zone residence time and  
 8496 description of method and location where the vent stream is  
 8497 introduced into the combustion zone.  
 8498
- 8499 iv) For a flare, the design analysis must consider the vent  
 8500 stream composition, constituent concentrations, and flow  
 8501 rate. The design analysis must also consider the  
 8502 requirements specified in Section 725.933(d).  
 8503
- 8504 v) For a condenser, the design analysis must consider the vent  
 8505 stream composition, constituent concentrations, flow rate,  
 8506 relative humidity, and temperature. The design analysis  
 8507 must also establish the design outlet organic compound  
 8508 concentration level, design average temperature of the  
 8509 condenser exhaust vent stream and design average  
 8510 temperatures of the coolant fluid at the condenser inlet and  
 8511 outlet.  
 8512
- 8513 vi) For a carbon adsorption system, such as a fixed-bed  
 8514 adsorber that regenerates the carbon bed directly onsite in  
 8515 the control device, the design analysis must consider the  
 8516 vent stream composition, constituent concentrations, flow  
 8517 rate, relative humidity and temperature. The design analysis  
 8518 must also establish the design exhaust vent stream organic  
 8519 compound concentration level, number and capacity of  
 8520 carbon beds, type and working capacity of activated carbon  
 8521 used for carbon beds, design total steam flow over the  
 8522 period of each complete carbon bed regeneration cycle,  
 8523 duration of the carbon bed steaming and cooling/drying  
 8524 cycles, design carbon bed temperature after regeneration,  
 8525 design carbon bed regeneration time and design service life  
 8526 of carbon.  
 8527
- 8528 vii) For a carbon adsorption system, such as a carbon canister  
 8529 that does not regenerate the carbon bed directly onsite in  
 8530 the control device, the design analysis must consider the  
 8531 vent stream composition, constituent concentrations, flow  
 8532 rate, relative humidity and temperature. The design analysis  
 8533 must also establish the design outlet organic concentration  
 8534 level, capacity of carbon bed, type and working capacity of

8535 activated carbon used for carbon bed and design carbon  
8536 replacement interval based on the total carbon working  
8537 capacity of the control device and source operating  
8538 schedule;

8539  
8540 D) A statement signed and dated by the owner or operator certifying  
8541 that the operating parameters used in the design analysis  
8542 reasonably represent the conditions that exist when the hazardous  
8543 waste management unit is or would be operating at the highest load  
8544 or capacity level reasonably expected to occur;

8545  
8546 E) A statement signed and dated by the owner or operator certifying  
8547 that the control device is designed to operate at an efficiency of 95  
8548 percent or greater unless the total organic concentration limit of  
8549 Section 725.932(a) is achieved at an efficiency less than 95 weight  
8550 percent or the total organic emission limits of Section 725.932(a)  
8551 for affected process vents at the facility are attained by a control  
8552 device involving vapor recovery at an efficiency less than 95  
8553 weight percent. A statement provided by the control device  
8554 manufacturer or vendor certifying that the control equipment meets  
8555 the design specifications may be used to comply with this  
8556 requirement; and

8557  
8558 F) If performance tests are used to demonstrate compliance, all test  
8559 results.

8560  
8561 c) Design documentation and monitoring operating and inspection information for  
8562 each closed-vent system and control device required to comply with the  
8563 provisions of this Part must be recorded and kept up-to-date in the facility  
8564 operating record. The information must include the following:

8565  
8566 1) Description and date of each modification that is made to the closed-vent  
8567 system or control device design;

8568  
8569 2) Identification of operating parameter, description of monitoring device,  
8570 and diagram of monitoring sensor location or locations used to comply  
8571 with Section 725.933(f)(1) and (f)(2);

8572  
8573 3) Monitoring, operating and inspection information required by Section  
8574 725.933(f) through (k);

8575  
8576 4) Date, time, and duration of each period that occurs while the control  
8577 device is operating when any monitored parameter exceeds the value

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established in the control device design analysis, as specified below:

- A) For a thermal vapor incinerator designed to operate with a minimum residence time of 0.50 second at a minimum temperature of 760 °C, any period when the combustion temperature is below 760 °C.
- B) For a thermal vapor incinerator designed to operate with an organic emission reduction efficiency of 95 percent or greater, any period when the combustion zone temperature is more than 28 °C below the design average combustion zone temperature established as a requirement of subsection (b)(4)(C)(i).
- C) For a catalytic vapor incinerator, any period when either of the following occurs:
  - i) Temperature of the vent stream at the catalyst bed inlet is more than 28 °C below the average temperature of the inlet vent stream established as a requirement of subsection (b)(4)(C)(ii); or
  - ii) Temperature difference across the catalyst bed is less than 80 percent of the design average temperature difference established as a requirement of subsection (b)(4)(C)(ii).
- D) For a boiler or process heater, any period when either of the following occurs:
  - i) Flame zone temperature is more than 28 °C below the design average flame zone temperature established as a requirement of subsection (b)(4)(C)(iii); or
  - ii) Position changes where the vent stream is introduced to the combustion zone from the location established as a requirement of subsection (b)(4)(C)(iii).
- E) For a flare, period when the pilot flame is not ignited.
- F) For a condenser that complies with Section 725.933(f)(2)(F)(i), any period when the organic compound concentration level or readings of organic compounds in the exhaust vent stream from the condenser are more than 20 percent greater than the design outlet organic compound concentration level established as a requirement

- 8621 of subsection (b)(4)(C)(v).  
8622  
8623 G) For a condenser that complies with Section 725.933(f)(2)(F)(ii),  
8624 any period when either of the following occurs:  
8625  
8626 i) Temperature of the exhaust vent stream from the condenser  
8627 is more than 6 °C above the design average exhaust vent  
8628 stream temperature established as a requirement of  
8629 subsection (b)(4)(C)(v); or  
8630  
8631 ii) Temperature of the coolant fluid exiting the condenser is  
8632 more than 6 °C above the design average coolant fluid  
8633 temperature at the condenser outlet established as a  
8634 requirement of subsection (b)(4)(C)(v).  
8635  
8636 H) For a carbon adsorption system, such as a fixed-bed carbon  
8637 adsorber that regenerates the carbon bed directly onsite in the  
8638 control device and which complies with Section  
8639 725.933(f)(2)(G)(i), any period when the organic compound  
8640 concentration level or readings of organic compounds in the  
8641 exhaust vent stream from the carbon bed are more than 20 percent  
8642 greater than the design exhaust vent stream organic compound  
8643 concentration level established as a requirement of subsection  
8644 (b)(4)(C)(vi).  
8645  
8646 I) For a carbon adsorption system, such as a fixed-bed carbon  
8647 adsorber that regenerates the carbon bed directly onsite in the  
8648 control device and which complies with Section  
8649 725.933(f)(2)(G)(ii), any period when the vent stream continues to  
8650 flow through the control device beyond the predetermined carbon  
8651 bed regeneration time established as a requirement of subsection  
8652 (b)(4)(C)(vi);  
8653  
8654 5) Explanation for each period recorded under subsection (c)(4) of the cause  
8655 for control device operating parameter exceeding the design value and the  
8656 measures implemented to correct the control device operation;  
8657  
8658 6) For carbon adsorption systems operated subject to requirements specified  
8659 in Section 725.933(g) or (h)(2), any date when existing carbon in the  
8660 control device is replaced with fresh carbon;  
8661  
8662 7) For carbon adsorption systems operated subject to requirements specified  
8663 in Section 725.933(h)(1), a log that records:

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- A) Date and time when control device is monitored for carbon breakthrough and the monitoring device reading.
  - B) Date when existing carbon in the control device is replaced with fresh carbon;
- 8) Date of each control device startup and shutdown;
- 9) An owner or operator designating any components of a closed-vent system as unsafe to monitor pursuant to Section 725.933(n) must record in a log that is kept in the facility operating record the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of Section 725.933(n), an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component; and
- 10) When each leak is detected, as specified in Section 725.933(k), the following information must be recorded:
- A) The instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number;
  - B) The date the leak was detected and the date of first attempt to repair the leak;
  - C) The date of successful repair of the leak;
  - D) Maximum instrument reading measured by Reference 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), after it is successfully repaired or determined to be nonrepairable; and
  - E) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.
    - i) The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written

- 8707 procedure.
- 8708
- 8709 ii) If delay of repair was caused by depletion of stocked parts,
- 8710 there must be documentation that the spare parts were
- 8711 sufficiently stocked on-site before depletion and the reason
- 8712 for depletion.
- 8713
- 8714 d) Records of the monitoring, operating and inspection information required by
- 8715 subsections (c)(3) through (c)(10) must be maintained by the owner or operator
- 8716 for at least three years following the date of each occurrence, measurement,
- 8717 corrective action, or record.
- 8718
- 8719 e) For a control device other than a thermal vapor incinerator, catalytic vapor
- 8720 incinerator, flare, boiler, process heater, condenser or carbon adsorption system,
- 8721 monitoring and inspection information indicating proper operation and
- 8722 maintenance of the control device must be recorded in the facility operating
- 8723 record.
- 8724
- 8725 f) Up-to-date information and data used to determine whether or not a process vent
- 8726 is subject to the requirements in Section 725.932, including supporting
- 8727 documentation as required by Section 725.934(d)(2), when application of the
- 8728 knowledge of the nature of the hazardous waste stream or the process by which it
- 8729 was produced is used, must be recorded in a log that is kept in the facility
- 8730 operating record.

8731 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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8734 **SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS**

8735

8736 **Section 725.950 Applicability**

8737

- 8738 a) The regulations in this Subpart BB apply to owners and operators of facilities that
- 8739 treat, store, or dispose of hazardous wastes (except as provided in Section
- 8740 725.101).
- 8741
- 8742 b) Except as provided in Section 725.964(k), this Subpart BB applies to equipment
- 8743 that contains or contacts hazardous wastes with organic concentrations of at least
- 8744 10 percent by weight that are managed in one of the following:
- 8745
- 8746 1) A unit that is subject to the RCRA permitting requirements of 35 Ill. Adm.
- 8747 Code 702, 703, and 705;
- 8748
- 8749 2) A unit (including a hazardous waste recycling unit) that is not exempt

8750 from permitting under the provisions of 35 Ill. Adm. Code  
8751 722.117722.134(a) (i.e., a hazardous waste recycling unit that is not a "90-  
8752 day" tank or container) and that is located at a hazardous waste  
8753 management facility otherwise subject to the permitting requirements of  
8754 35 Ill. Adm. Code 702, 703, and 705; or

8755  
8756 3) A unit that is exempt from permitting under the provisions of 35 Ill. Adm.  
8757 Code 722.117722.134(a) (i.e., a "90-day" tank or container) and which is  
8758 not a recycling unit under the provisions of 35 Ill. Adm. Code 721.106.  
8759

8760 c) Each piece of equipment to which this Subpart BB applies must be marked in  
8761 such a manner that it can be distinguished readily from other pieces of equipment.  
8762

8763 d) Equipment that is in vacuum service is excluded from the requirements of  
8764 Sections 725.952 to 725.960, if it is identified as required in Section  
8765 725.964(g)(5).  
8766

8767 e) Equipment that contains or contacts hazardous waste with an organic  
8768 concentration of at least 10 percent by weight for less than 300 hours per calendar  
8769 year is excluded from the requirements of Sections 725.952 through 725.960 if it  
8770 is identified as required in Section 725.964(g)(6).  
8771

8772 f) This subsection (f) corresponds with 40 CFR 265.1050(f), which relates  
8773 exclusively to a facility outside Illinois. This statement maintains structural  
8774 consistency with the corresponding federal regulations.  
8775

8776 g) Purged coatings and solvents from surface coating operations subject to the  
8777 federal national emission standards for hazardous air pollutants (NESHAPs) for  
8778 the surface coating of automobiles and light-duty trucks at subpart IIII of 40 CFR  
8779 63 (National Emission Standards for Hazardous Air Pollutants: Surface Coating  
8780 of Automobiles and Light-Duty Trucks) are not subject to the requirements of this  
8781 Subpart BB.  
8782

8783 BOARD NOTE: The requirements of Sections 725.952 through 725.964 apply to  
8784 equipment associated with hazardous waste recycling units previously exempt under 35  
8785 Ill. Adm. Code 721.106(c)(1). Other exemptions under 35 Ill. Adm. Code 721.104 and  
8786 725.101(e) are not affected by these requirements.  
8787

8788 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
8789

8790 **Section 725.951 Definitions**

8791  
8792 As used in this Subpart BB, all terms have the meaning given them in Section 725.931, section

8793 1004 of the Resource Conservation and Recovery Act, incorporated by reference in 35 Ill. Adm.  
8794 Code 720.111, and 35 Ill. Adm. Code 720 through 728, and 738.

8795

8796 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

8797

8798 **Section 725.953 Standards: Compressors**

8799

8800 a) Each compressor must be equipped with a seal system that includes a barrier fluid  
8801 system and that prevents leakage of total organic emissions to the atmosphere,  
8802 except as provided in subsections (h) and (i) ~~of this Section.~~

8803

8804 b) The following must be true of each compressor seal system, as required in  
8805 subsection (a) ~~of this Section:~~

8806

8807 1) Operated with the barrier fluid at a pressure that is at all times greater than  
8808 the compressor stuffing box pressure;

8809

8810 2) Equipped with a barrier fluid system that is connected by a closed-vent  
8811 system to a control device that complies with the requirements of Section  
8812 725.960; or

8813

8814 3) Equipped with a system that purges the barrier fluid into a hazardous  
8815 wastestream with no detectable emissions to atmosphere.

8816

8817 c) The barrier fluid must not be a hazardous waste with organic concentrations 10  
8818 percent or greater by weight.

8819

8820 d) Each barrier fluid system, as described in subsections (a) through (c) ~~of this~~  
8821 ~~Section,~~ must be equipped with a sensor that will detect failure of the seal system,  
8822 barrier fluid system, or both.

8823

8824 e) Inspections.

8825

8826 1) Each sensor, as required in subsection (d) ~~of this Section,~~ must be checked  
8827 daily or must be equipped with an audible alarm that must be checked  
8828 monthly to ensure that it is functioning properly, unless the compressor is  
8829 located within the boundary of an unmanned plant site, in which case the  
8830 sensor must be checked daily.

8831

8832 2) The owner or operator must determine, based on design considerations  
8833 and operating experience, a criterion that indicates failure of the seal  
8834 system, the barrier fluid system, or both.

8835

- 8836 f) If the sensor indicates failure of the seal system, the barrier fluid system, or both  
8837 based on the criterion determined under subsection (e)(2) ~~of this Section~~, a leak is  
8838 detected.  
8839
- 8840 g) Repairs.  
8841
- 8842 1) When a leak is detected, it must be repaired as soon as practicable, but not  
8843 later than 15 calendar days after it is detected, except as provided in  
8844 Section 725.959.  
8845
- 8846 2) A first attempt at repair (e.g., tightening the packing gland) must be made  
8847 no later than five calendar days after each leak is detected.  
8848
- 8849 h) A compressor is exempt from the requirements of subsections (a) and (b) ~~of this~~  
8850 ~~Section~~ if it is equipped with a closed-vent system capable of capturing and  
8851 transporting any leakage from the seal to a control device that complies with the  
8852 requirements of Section 725.960, except as provided in subsection (i) ~~of this~~  
8853 ~~Section~~.  
8854
- 8855 i) Any compressor that is designated, as described in Section 725.964(g)(2), for no  
8856 detectable emission as indicated by an instrument reading of less than 500 ppm  
8857 above background, is exempt from the requirements of subsections (a) through (h)  
8858 ~~of this Section~~ if the following is true of the compressor:  
8859
- 8860 1) It is determined to be operating with no detectable emissions, as indicated  
8861 by an instrument reading of less than 500 ppm above background, as  
8862 measured by the method specified in Section 725.963(c).  
8863
- 8864 2) It is tested for compliance with subsection (i)(1) ~~of this Section~~ initially  
8865 upon designation, annually and other times as specified by the Agency  
8866 pursuant to Section 725.950(e).  
8867

8868 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
8869

8870 **Section 725.954 Standards: Pressure Relief Devices in Gas/Vapor Service**  
8871

- 8872 a) Except during pressure releases, each pressure relief device in gas/vapor service  
8873 must be operated with no detectable emissions, as indicated by an instrument  
8874 reading of less than 500 ppm above background as measured by the method  
8875 specified in Section 725.963(c).  
8876
- 8877 b) Actions following pressure release.  
8878

- 8879 1) After each pressure release, the pressure relief device must be returned to  
8880 a condition of no detectable emissions, as indicated by an instrument  
8881 reading of less than 500 ppm above background, as soon as practicable,  
8882 but no later than 5 calendar days after each pressure release, except as  
8883 provided in Section 725.959.  
8884  
8885 2) No later than five calendar days after the pressure release, the pressure  
8886 relief device must be monitored to confirm the condition of no detectable  
8887 emissions, as indicated by an instrument reading of less than 500 ppm  
8888 above background, as measured by the method specified in Section  
8889 725.963(c).  
8890  
8891 c) Any pressure relief device that is equipped with a closed-vent system capable of  
8892 capturing and transporting leakage from the pressure relief device to a control  
8893 device as described in Section 725.960 is exempt from the requirements of  
8894 subsections (a) and (b) of this Section.  
8895  
8896 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
8897

8898 **Section 725.955 Standards: Sampling Connecting Systems**  
8899

- 8900 a) Each sampling connection system must be equipped with a closed-purge, closed-  
8901 loop, or closed-vent system. This system must collect the sample purge for return  
8902 to the process or for routing to the appropriate treatment system. Gases displaced  
8903 during filling of the sample container are not required to be collected or captured.  
8904  
8905 b) Each closed-purge, closed-loop, or closed-vent system as required in subsection  
8906 (a) of this Section must meet one of the following requirements:  
8907  
8908 1) Return the purged process fluid directly to the process line;  
8909  
8910 2) Collect and recycle the purged process fluid; or  
8911  
8912 3) Be designed and operated to capture and transport all the purged process  
8913 fluid to a waste management unit that complies with the applicable  
8914 requirements of Sections 725.985 through 725.987 or a control device that  
8915 complies with the requirements of Section 725.960.  
8916  
8917 c) In-situ sampling systems and sampling systems without purges are exempt from  
8918 the requirements of subsections (a) and (b) of this Section.  
8919  
8920 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
8921

**Section 725.956 Standards: Open-Ended Valves or Lines**

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- a) Equipment.
  - 1) Each open-ended valve or line must be equipped with a cap, blind flange, plug, or a second valve.
  - 2) The cap, blind flange, plug, or second valve must seal the open end at all times except during operations requiring hazardous wastestream flow through the open-ended valve or line.
- b) Each open-ended valve or line equipped with a second valve must be operated in a manner such that the valve on the hazardous wastestream end is closed before the second valve is closed.
- c) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but must comply with subsection (a) of this Section at all other times.

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

**Section 725.957 Standards: Valves in Gas/Vapor or Light Liquid Service**

- a) Each valve in gas/vapor or light liquid service must be monitored monthly to detect leaks by the methods specified in Section 725.963(b) and must comply with subsections (b) through (e) of this Section, except as provided in subsections (f), (g), and (h) of this Section and in Sections 725.961 and 725.962.
- b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.
- c) Monitoring Frequency.
  - 1) Any valve for which a leak is not detected for two successive months must be monitored the first month of every succeeding quarter, beginning with the next quarter, until a leak is detected.
  - 2) If a leak is detected, the valve must be monitored monthly until a leak is not detected for two successive months,
- d) Leak repair.
  - 1) When a leak is detected, it must be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in

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Section 725.959.

- 2) A first attempt at repair must be made no later than five calendar days after each leak is detected.
- e) First attempts at repair include, but are not limited to the following best practices where practicable:
  - 1) Tightening of bonnet bolts;
  - 2) Replacement of bonnet bolts;
  - 3) Tightening of packing gland nuts; or
  - 4) Injection of lubricant into lubricated packing.
- f) Any valve that is designated, as described in Section 725.964(g)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of subsection (a) of this Section if the valve fulfills the following requirements:
  - 1) It has no external actuating mechanism in contact with the hazardous wastestream;
  - 2) It is operated with emissions less than 500 ppm above background as determined by the method specified in Section 725.963(c); and
  - 3) It is tested for compliance with subsection (f)(2) initially upon designation, annually, and at other times as specified by the Agency pursuant to Section 725.950(e).
- g) Any valve that is designated, as described in Section 725.964(h)(1), as an unsafe-to-monitor valve is exempt from the requirements of subsection (a), if the following conditions are fulfilled:
  - 1) The owner or operator of the valve determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with subsection (a) of this Section; and
  - 2) The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

- 9008  
9009 h) Any valve that is designated, as described in Section 725.964(h)(2), as a difficult-  
9010 to-monitor valve is exempt from the requirements of subsection (a), if the  
9011 following conditions are fulfilled:  
9012  
9013 1) The owner or operator of the valve determines that the valve cannot be  
9014 monitored without elevating the monitoring personnel more than two  
9015 meters above a support surface;  
9016  
9017 2) The hazardous waste management unit within which the valve is located  
9018 was in operation before June 21, 1990; and  
9019  
9020 3) The owner or operator of the valve follows a written plan that requires  
9021 monitoring of the valve at least once per calendar year.  
9022

9023 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
9024

9025 **Section 725.958 Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other**  
9026 **Connectors**  
9027

- 9028 a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid or  
9029 heavy liquid service and flanges and other connectors must be monitored within  
9030 five days by the method specified in Section 725.963(b), if evidence of a potential  
9031 leak is found by visual, audible, olfactory, or any other detection method.  
9032  
9033 b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.  
9034  
9035 c) Repairs.  
9036  
9037 1) When a leak is detected, it must be repaired as soon as practicable, but not  
9038 later than 15 calendar days after it is detected, except as provided in  
9039 Section 725.959.  
9040  
9041 2) The first attempt at repair must be made no later than five calendar days  
9042 after each leak is detected.  
9043  
9044 d) First attempts at repair include, but are not limited to, the best practices described  
9045 under Section 725.957(e).  
9046  
9047 e) Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain,  
9048 glass, or glass-lined) is exempt from the monitoring requirements of subsection  
9049 (a) of this Section and from the recordkeeping requirements of Section 725.964.  
9050

9051 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 9052

9053 **Section 725.960 Standards: Closed-Vent Systems and Control Devices**  
 9054

- 9055 a) An owner or operator of a closed-vent system or control device subject to this  
 9056 Subpart BB must comply with the provisions of Section 725.933.  
 9057
- 9058 b) Implementation Schedule.  
 9059
- 9060 1) The owner or operator of an existing facility that cannot install a closed-  
 9061 vent system and control device to comply with the provisions of this  
 9062 Subpart BB on the effective date that the facility becomes subject to the  
 9063 provisions of this Subpart BB must prepare an implementation schedule  
 9064 that includes dates by which the closed-vent system and control device  
 9065 will be installed and in operation. The controls must be installed as soon  
 9066 as possible, but the implementation schedule may allow up to 30 months  
 9067 after the effective date that the facility becomes subject to this Subpart BB  
 9068 for installation and startup.  
 9069
- 9070 2) Any unit that ~~begins operation after December 21, 1990, and which is~~  
 9071 subject to the provisions of this Subpart BB when operation begins, must  
 9072 comply with the rules immediately (i.e., the unit must have control devices  
 9073 installed and operating on startup of the affected unit); the 30-month  
 9074 implementation schedule does not apply.  
 9075
- 9076 3) The owner or operator of any facility in existence on the effective date of a  
 9077 statutory or regulatory amendment that renders the facility subject to this  
 9078 Subpart BB must comply with all requirements of this Subpart BB as soon  
 9079 as practicable but no later than 30 months after the effective date of the  
 9080 amendment. When control equipment required by this Subpart BB cannot  
 9081 be installed and begin operation by the effective date of the amendment,  
 9082 the facility owner or operator must prepare an implementation schedule  
 9083 that includes the following information: Specific calendar dates for award  
 9084 of contracts or issuance of purchase orders for the control equipment,  
 9085 initiation of on-site installation of the control equipment, completion of  
 9086 the control equipment installation, and performance of any testing to  
 9087 demonstrate that the installed equipment meets the applicable standards of  
 9088 this Subpart BB. The owner or operator must enter the implementation  
 9089 schedule in the operating record or in a permanent, readily available file  
 9090 located at the facility.  
 9091
- 9092 4) An owner or operator of a facility or unit that becomes newly subject to  
 9093 the requirements of this Subpart BB due to an action other than those

9094 described in subsection (b)(3) of this Section must comply with all  
9095 applicable requirements immediately (i.e., the facility or unit must have  
9096 control devices installed and operating on the date the facility or unit  
9097 becomes subject to this Subpart BB; the 30-month implementation  
9098 schedule does not apply).

9099  
9100 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
9101

9102 **Section 725.961 Percent Leakage Alternative for Valves**  
9103

- 9104 a) An owner or operator subject to the requirements of Section 725.957 may elect to  
9105 have all valves within a hazardous waste management unit comply with an  
9106 alternative standard that allows no greater than two percent of the valves to leak.  
9107
- 9108 b) The following requirements must be met if an owner or operator decides to  
9109 comply with the alternative standard of allowing two percent of valves to leak:  
9110
- 9111 1) A performance test as specified in subsection (c) of this Section must be  
9112 conducted initially upon designation, annually and other times as specified  
9113 by the Agency pursuant to Section 725.950(e); and  
9114
- 9115 2) If a valve leak is detected it must be repaired in accordance with Section  
9116 725.957(d) and (e).  
9117
- 9118 c) Performance tests must be conducted in the following manner:  
9119
- 9120 1) All valves subject to the requirements in Section 725.957 within the  
9121 hazardous waste management unit must be monitored within 1 week by  
9122 the methods specified in Section 725.963(b);  
9123
- 9124 2) If an instrument reading of 10,000 ppm or greater is measured, a leak is  
9125 detected; and  
9126
- 9127 3) The leak percentage must be determined by dividing the number of valves  
9128 subject to the requirements in Section 725.957 for which leaks are  
9129 detected by the total number of valves subject to the requirements in  
9130 Section 725.957 within the hazardous waste management unit.  
9131

9132 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
9133

9134 **Section 725.962 Skip Period Alternative for Valves**  
9135

- 9136 a) An owner or operator subject to the requirements of Section 725.957 may elect

9137 for all valves within a hazardous waste management unit to comply with one of  
 9138 the alternative work practices specified in subsections (b)(2) and (b)(3) of this  
 9139 Section.

9140  
 9141 b) Reduced Monitoring.

- 9142  
 9143 1) An owner or operator must comply with the requirements for valves, as  
 9144 described in Section 725.957, except as described in subsections (b)(2)  
 9145 and (b)(3) of this Section.  
 9146  
 9147 2) After two consecutive quarterly leak detection periods with the percentage  
 9148 of valves leaking equal to or less than two percent, an owner or operator  
 9149 may begin to skip one of the quarterly leak detection periods (i.e., the  
 9150 owner or operator may monitor for leaks once every six months) for the  
 9151 valves subject to the requirements in Section 725.957.  
 9152  
 9153 3) After five consecutive quarterly leak detection periods with the percentage  
 9154 of valves leaking equal to or less than two percent, an owner or operator  
 9155 may begin to skip three of the quarterly leak detection periods (i.e., the  
 9156 owner or operator may monitor for leaks once every year) for the valves  
 9157 subject to the requirements in Section 725.957.  
 9158  
 9159 4) If the percentage of valves leaking is greater than two percent, the owner  
 9160 or operator must monitor monthly in compliance with the requirements in  
 9161 Section 725.957, but may again elect to use this Section after meeting the  
 9162 requirements of Section 725.957(c)(1).  
 9163

9164 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 9165

9166 **Section 725.963 Test Methods and Procedures**  
 9167

- 9168 a) Each owner or operator subject to the provisions of this Subpart BB must comply  
 9169 with the test methods and procedures requirements provided in this Section.  
 9170  
 9171 b) Leak detection monitoring, as required in Sections 725.952 through 725.962, must  
 9172 comply with the following requirements:  
 9173  
 9174 1) Monitoring must comply with Reference Method 21 (Determination of  
 9175 Volatile Organic Compound Leaks) in appendix A to 40 CFR 60 (Test  
 9176 Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b);  
 9177  
 9178 2) The detection instrument must meet the performance criteria of Reference  
 9179 Method 21;

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- 3) The instrument must be calibrated before use on each day of its use by the procedures specified in Reference Method 21;
  - 4) Calibration gases must be as follows:
    - A) Zero air (less than 10 ppm of hydrocarbon in air);
    - B) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane; and
  - 5) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.
- c) When equipment is tested for compliance with no detectable emissions, as required in Sections 725.952(e), 725.953(i), 725.954, and 725.957(f), the test must comply with the following requirements:
- 1) The requirements of subsections (b)(1) through (b)(4) of this Section apply;
  - 2) The background level must be determined as set forth in Reference Method 21;
  - 3) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21; and
  - 4) This arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.
- d) In accordance with the waste analysis plan required by Section 725.113(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the following:
- 1) Methods described in ASTM Methods D 2267-88 (Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography), E 168-88 (Standard Practices for General Techniques of Infrared Quantitative Analysis), E 169-87 (Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis), or E

- 9223 260-85 (Standard Practice for Packed Column Gas Chromatography), each  
 9224 incorporated by reference in 35 Ill. Adm. Code 720.111(a);  
 9225  
 9226 2) Method 9060A (Total Organic Carbon) of "Test Methods for Evaluating  
 9227 Solid Waste, Physical/Chemical Methods," USEPA publication number  
 9228 EPA 530/SW-846, incorporated by reference in 35 Ill. Adm. Code  
 9229 720.111(a), or analyzed for its individual organic constituents; or  
 9230  
 9231 3) Application of the knowledge of the nature of the hazardous wastestream  
 9232 or the process by which it was produced. Documentation of a waste  
 9233 determination by knowledge is required. Examples of documentation that  
 9234 must be used to support a determination under this provision include  
 9235 production process information documenting that no organic compounds  
 9236 are used, information that the waste is generated by a process that is  
 9237 identical to a process at the same or another facility that has previously  
 9238 been demonstrated by direct measurement to have a total organic content  
 9239 less than 10 percent, or prior speciation analysis results on the same  
 9240 wastestream where it is also documented that no process changes have  
 9241 occurred since that analysis that could affect the waste total organic  
 9242 concentration.  
 9243  
 9244 e) If an owner or operator determines that a piece of equipment contains or contacts  
 9245 a hazardous waste with organic concentrations at least 10 percent by weight, the  
 9246 determination can be revised only after following the procedures in subsection  
 9247 (d)(1) or (d)(2) of this Section.  
 9248  
 9249 f) When an owner or operator and the Agency do not agree on whether a piece of  
 9250 equipment contains or contacts a hazardous waste with organic concentrations at  
 9251 least 10 percent by weight, the procedures in subsection (d)(1) or (d)(2) of this  
 9252 Section must be used to resolve the dispute.  
 9253  
 9254 g) Samples used in determining the percent organic content must be representative  
 9255 of the highest total organic content hazardous waste that is expected to be  
 9256 contained in or contact the equipment.  
 9257  
 9258 h) To determine if pumps or valves are in light liquid service, the vapor pressures of  
 9259 constituents must either be obtained from standard reference texts or be  
 9260 determined by ASTM D 2879-92 (Standard Test Method for Vapor Pressure  
 9261 Temperature Relationship and Initial Decomposition Temperature of Liquids by  
 9262 Isoteniscope), incorporated by reference in 35 Ill. Adm. Code 720.111(a).  
 9263  
 9264 i) Performance tests to determine if a control device achieves 95 weight percent  
 9265 organic emission reduction must comply with the procedures of Section

9266 725.934(c)(1) through (c)(4).

9267

9268 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

9269

9270 **Section 725.964 Recordkeeping Requirements**

9271

9272 a) Lumping Units.

9273

9274 1) Each owner or operator subject to the provisions of this Subpart BB must  
9275 comply with the recordkeeping requirements of this Section.

9276

9277 2) An owner or operator of more than one hazardous waste management unit  
9278 subject to the provisions of this Subpart BB may comply with the  
9279 recordkeeping requirements for these hazardous waste management units  
9280 in one recordkeeping system if the system identifies each record by each  
9281 hazardous waste management unit.

9282

9283 b) Owners and operators must record the following information in the facility  
9284 operating record:

9285

9286 1) For each piece of equipment to which this Subpart BB applies, the  
9287 following:

9288

9289 A) Equipment identification number and hazardous waste  
9290 management unit identification;

9291

9292 B) Approximate locations within the facility (e.g., identify the  
9293 hazardous waste management unit on a facility plot plan);

9294

9295 C) Type of equipment (e.g., a pump or pipeline valve);

9296

9297 D) Percent-by-weight total organics in the hazardous wastestream at  
9298 the equipment;

9299

9300 E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid);  
9301 and

9302

9303 F) Method of compliance with the standard (e.g., "monthly leak  
9304 detection and repair" or "equipped with dual mechanical seals");

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9306 2) For facilities that comply with the provisions of Section 725.933(a)(2), an  
9307 implementation schedule, as specified in that Section;

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- 3) Where an owner or operator chooses to use test data to demonstrate the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan, as specified in Section 725.935(b)(3); and
  - 4) Documentation of compliance with Section 725.960, including the detailed design documentation or performance test results specified in Section 725.935(b)(4).
- c) When each leak is detected, as specified in Section 725.952, 725.953, 725.957, or 725.958, the following requirements apply:
- 1) A weatherproof and readily visible identification, marked with the equipment identification number, the date evidence of a potential leak was found in accordance with Section 725.958(a), and the date the leak was detected, must be attached to the leaking equipment;
  - 2) The identification on equipment except on a valve, may be removed after it has been repaired; and
  - 3) The identification on a valve may be removed after it has been monitored for two successive months as specified in Section 725.957(c) and no leak has been detected during those two months.
- d) When each leak is detected, as specified in Sections 725.952, 725.953, 725.957, or 725.958, the following information must be recorded in an inspection log and must be kept in the facility operating record:
- 1) The instrument and operator identification numbers and the equipment identification number;
  - 2) The date evidence of a potential leak was found in accordance with Section 725.958(a);
  - 3) The date the leak was detected and the dates of each attempt to repair the leak;
  - 4) Repair methods applied in each attempt to repair the leak;
  - 5) "Above 10,000," if the maximum instrument reading measured by the methods specified in Section 725.963(b) after each repair attempt is equal to or greater than 10,000 ppm;

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- 6) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak;
  - 7) Documentation supporting the delay of repair of a valve in compliance with Section 725.959(c);
  - 8) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a hazardous waste management unit shutdown;
  - 9) The expected date of successful repair of the leak if a leak is not repaired within 15 calendar days; and
  - 10) The date of successful repair of the leak.
- e) Design documentation and monitoring, operating, and inspection information for each closed-vent system and control device required to comply with the provisions of Section 725.960 must be recorded and kept up-to-date in the facility operating record as specified in Section 725.935(c)(1) and (c)(2), and monitoring, operating and inspection information in Section 725.935(c)(3) through (c)(8).
- f) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system, monitoring and inspection information indicating proper operation and maintenance of the control device must be recorded in the facility operating record.
- g) The following information pertaining to all equipment subject to the requirements in Sections 725.952 through 725.960 must be recorded in a log that is kept in the facility operating record:
- 1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this Subpart BB.
  - 2) List of Equipment.
    - A) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, under the provisions of Sections 725.952(e), 725.953(i), and 725.957(f).
    - B) The designation of this equipment as subject to the requirements of

9395 Section 725.952(e), 725.953(i), or 725.957(f) must be signed by  
9396 the owner or operator.  
9397

9398 3) A list of equipment identification numbers for pressure relief devices  
9399 required to comply with Section 725.954(a).  
9400

9401 4) Compliance Tests.  
9402

9403 A) The dates of each compliance test required in Sections 725.952(e),  
9404 725.953(i), 725.954, and 725.957(f).  
9405

9406 B) The background level measured during each compliance test.  
9407

9408 C) The maximum instrument reading measured at the equipment  
9409 during each compliance test.  
9410

9411 5) A list of identification numbers for equipment in vacuum service.  
9412

9413 6) Identification, either by list or location (area or group) of equipment that  
9414 contains or contacts hazardous waste with an organic concentration of at  
9415 least 10 percent by weight for less than 300 hours per year.  
9416

9417 h) The following information pertaining to all valves subject to the requirements of  
9418 Section 725.957(g) and (h) must be recorded in a log that is kept in the facility  
9419 operating record:  
9420

9421 1) A list of identification numbers for valves that are designated as unsafe to  
9422 monitor, an explanation for each valve stating why the valve is unsafe to  
9423 monitor, and the plan for monitoring each valve; and  
9424

9425 2) A list of identification numbers for valves that are designated as difficult  
9426 to monitor, an explanation for each valve stating why the valve is difficult  
9427 to monitor, and the planned schedule for monitoring each valve.  
9428

9429 i) The following information must be recorded in the facility operating record for  
9430 valves complying with Section 725.962:  
9431

9432 1) A schedule of monitoring; and  
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9434 2) The percent of valves found leaking during each monitoring period.  
9435

9436 j) The following information must be recorded in a log that is kept in the facility  
9437 operating record:

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- 1) Criteria required in Sections 725.952(d)(5)(B) and 725.953(e)(2) and an explanation of the criteria; and
  - 2) Any changes to these criteria and the reasons for the changes.
- k) The following information must be recorded in a log that is kept in the facility operating record for use in determining exemptions, as provided in Section 725.950 and other specific Subparts:
- 1) An analysis determining the design capacity of the hazardous waste management unit;
  - 2) A statement listing the hazardous waste influent to and effluent from each hazardous waste management unit subject to the requirements in Sections 725.952 through 725.960 and an analysis determining whether these hazardous wastes are heavy liquids; and
  - 3) An up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in Sections 725.952 through 725.960. The record must include supporting documentation, as required by Section 725.963(d)(3), when application of the knowledge of the nature of the hazardous wastestream or the process by which it was produced is used. If the owner or operator takes any action (e.g., changing the process that produced the waste) that could result in an increase in the total organic content of the waste contained in or contacted by equipment determined not to be subject to the requirements in Sections 725.952 through 725.960, then a new determination is required.
- l) Records of the equipment leak information required by subsection (d) and the operating information required by subsection (e) need be kept only three years.
- m) The owner or operator of any facility with equipment that is subject to this Subpart and to federal regulations at 40 CFR 60, 61, or 63 may elect to determine compliance with this Subpart BB by documentation of compliance either pursuant to Section 725.964 or by documentation of compliance with the regulations at 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), pursuant to the relevant provisions of 40 CFR 60, 61, or 63, each incorporated by reference in 35 Ill. Adm. Code 720.111(b). The documentation of compliance under the regulation at 40 CFR 60, 61, or 63 must be kept with or made readily available

9481 with the facility operating record.

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9483 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

9484

9485 SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE

9486 IMPOUNDMENTS, AND CONTAINERS

9487

9488 **Section 725.980 Applicability**

9489

9490 a) The requirements of this Subpart CC apply to owners and operators of all  
9491 facilities that treat, store, or dispose of hazardous waste in tanks, surface  
9492 impoundments, or containers that are subject to Subpart I, J, or K of this Part,  
9493 except as Section 725.101 and subsection (b) of this Section provide otherwise.

9494

9495 b) The requirements of this Subpart CC do not apply to the following waste  
9496 management units at the facility:

9497

9498 1) A waste management unit that holds hazardous waste placed in the unit  
9499 before December 6, 1996, and in which no hazardous waste was added to  
9500 the unit on or after December 6, 1996;

9501

9502 2) A container that has a design capacity less than or equal to 0.1 m<sup>3</sup> (3.5 ft<sup>3</sup>  
9503 or 26.4 gal);

9504

9505 3) A tank in which an owner or operator has stopped adding hazardous waste  
9506 and the owner or operator has begun implementing or completed closure  
9507 pursuant to an approved closure plan;

9508

9509 4) A surface impoundment in which an owner or operator has stopped adding  
9510 hazardous waste (except to implement an approved closure plan) and the  
9511 owner or operator has begun implementing or completed closure pursuant  
9512 to an approved closure plan;

9513

9514 5) A waste management unit that is used solely for on-site treatment or  
9515 storage of hazardous waste that is placed in the unit as a result of  
9516 implementing remedial activities required pursuant to the Act or Board  
9517 regulations or pursuant to the corrective action authorities of RCRA  
9518 sections 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar  
9519 federal or State authorities;

9520

9521 6) A waste management unit that is used solely for the management of  
9522 radioactive mixed waste in accordance with all applicable regulations  
9523 pursuant to the authority of the Atomic Energy Act of 1954 (42 USC 2011

- 9524 et seq.) and the Nuclear Waste Policy Act of 1982 (42 USC 10101 et seq.);  
 9525  
 9526 7) A hazardous waste management unit that the owner or operator certifies is  
 9527 equipped with and operating air emission controls in accordance with the  
 9528 requirements of an applicable federal Clean Air Act regulation codified  
 9529 pursuant to 40 CFR 60 (Standards of Performance for New Stationary  
 9530 Sources), 61 (National Emission Standards for Hazardous Air Pollutants),  
 9531 or 63 (National Emission Standards for Hazardous Air Pollutants for  
 9532 Source Categories). For the purpose of complying with this subsection  
 9533 (b)(7), a tank for which the air emission control includes an enclosure, as  
 9534 opposed to a cover, must be in compliance with the enclosure and control  
 9535 device requirements of Section 725.985(i), except as provided in Section  
 9536 725.983(c)(5); and  
 9537  
 9538 8) A tank that has a process vent, as defined in 35 Ill. Adm. Code 725.931.  
 9539  
 9540 c) This subsection (c) corresponds with 40 CFR 265.1080(c), which requires  
 9541 incorporation of requirements of Subpart CC of 35 Ill. Adm. Code 724 into a  
 9542 permit issued prior to a date long past and compliance with this Subpart CC until  
 9543 the permit issues. This statement maintains structural consistency with the  
 9544 corresponding federal rules.~~For the owner and operator of a facility subject to this~~  
 9545 ~~Subpart CC that has received a final RCRA permit prior to December 6, 1996, the~~  
 9546 ~~following requirements apply:~~  
 9547  
 9548 1) ~~The requirements of Subpart CC of 35 Ill. Adm. Code 724 must be~~  
 9549 ~~incorporated into the permit when the permit is reissued, renewed, or~~  
 9550 ~~modified in accordance with the requirements of 35 Ill. Adm. Code 703~~  
 9551 ~~and 705.~~  
 9552  
 9553 2) ~~Until the date when the permit is reissued, renewed, or modified in~~  
 9554 ~~accordance with the requirements of 35 Ill. Adm. Code 703 and 705, the~~  
 9555 ~~owner and operator is subject to the requirements of this Subpart CC.~~  
 9556  
 9557 d) The requirements of this Subpart CC, except for the recordkeeping requirements  
 9558 specified in Section 725.990(i), are stayed for a tank or container used for the  
 9559 management of hazardous waste generated by organic peroxide manufacturing  
 9560 and its associated laboratory operations, when the owner or operator of the unit  
 9561 meets all of the following conditions:  
 9562  
 9563 1) The owner or operator identifies that the tank or container receives  
 9564 hazardous waste generated by an organic peroxide manufacturing process  
 9565 producing more than one functional family of organic peroxides or  
 9566 multiple organic peroxides within one functional family, that one or more

9567 of these organic peroxides could potentially undergo self-accelerating  
 9568 thermal decomposition at or below ambient temperatures, and that organic  
 9569 peroxides are the predominant products manufactured by the process. For  
 9570 the purposes of this subsection, "organic peroxide" means an organic  
 9571 compound that contains the bivalent -O-O- structure and which may be  
 9572 considered to be a structural derivative of hydrogen peroxide where one or  
 9573 both of the hydrogen atoms has been replaced by an organic radical;  
 9574

- 9575 2) The owner or operator prepares documentation, in accordance with  
 9576 Section 725.990(i), explaining why an undue safety hazard would be  
 9577 created if air emission controls specified in Sections 725.985 through  
 9578 725.988 are installed and operated on the tanks and containers used at the  
 9579 facility to manage the hazardous waste generated by the organic peroxide  
 9580 manufacturing process or processes meeting the conditions of subsection  
 9581 (d)(1) ~~of this Section~~; and  
 9582
- 9583 3) The owner or operator notifies the Agency in writing that hazardous waste  
 9584 generated by an organic peroxide manufacturing process or processes  
 9585 meeting the conditions of subsection (d)(1) ~~of this Section~~ are managed at  
 9586 the facility in tanks or containers meeting the conditions of subsection  
 9587 (d)(2) ~~of this Section~~. The notification must state the name and address of  
 9588 the facility and be signed and dated by an authorized representative of the  
 9589 facility owner or operator.  
 9590

9591 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 9592

9593 **Section 725.981 Definitions**  
 9594

9595 As used in this Subpart CC and in 35 Ill. Adm. Code 724, all terms not defined herein will have  
 9596 the meanings given to them in section 1004 of the federal Resource Conservation and Recovery  
 9597 Act, incorporated by reference in 35 Ill. Adm. Code 720.111, the Act and 35 Ill. Adm. Code 720  
 9598 through 728.  
 9599

9600 "Average volatile organic concentration" or "average VO concentration" means  
 9601 the mass-weighted average volatile organic concentration of a hazardous waste, as  
 9602 determined in accordance with the requirements of Section 725.984.  
 9603

9604 "Closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting  
 9605 that blocks an opening in a cover so that when the device is secured in the closed  
 9606 position it prevents or reduces air pollutant emissions to the atmosphere. Closure  
 9607 devices include devices that are detachable from the cover (e.g., a sampling port  
 9608 cap), manually operated (e.g., a hinged access lid or hatch), or automatically  
 9609 operated (e.g., a spring-loaded pressure relief valve).

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"Continuous seal" means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

"Cover" means a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, and gauge wells) that are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is used. A cover may be a separate piece of equipment that can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

"Enclosure" means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

"External floating roof" means a pontoon-type or double-deck type cover that rests on the surface of a hazardous waste being managed in a tank with no fixed roof.

"Fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

"Floating membrane cover" means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

"Floating roof" means a cover consisting of a double-deck, pontoon single-deck, or internal floating cover that rests upon and is supported by the material being contained, and is equipped with a continuous seal.

"Hard-piping" means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

"In light material service" means that the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20° C (20°C) (1.2 inches H<sub>2</sub>O at 68° F (68°F)); and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20° C (20°C) (1.2 inches H<sub>2</sub>O at 68° F (68°F)) is equal to or greater than 20 percent by

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weight.

"Internal floating roof" means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

"Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof, continuously around the circumference of the tank.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. A failure that is caused in part by poor maintenance or careless operation is not a malfunction.

"Maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Subpart CC, maximum organic vapor pressure is determined using the procedures specified in Section 725.984(c).

"Metallic shoe seal" means a continuous seal that is constructed of metal sheets that are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and which is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

"No detectable organic emissions" means no escape of organics to the atmosphere, as determined using the procedure specified in Section 725.984(d).

"Point of waste origination" means as follows:

When the facility owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste, as defined in 35 Ill. Adm. Code 721.

BOARD NOTE: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the federal Clean Air Act in 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), and 63 (National Emission Standards for Hazardous Air Pollutants for Source

9696 Categories).

9697

9698 When the facility owner and operator are not the generator of the

9699 hazardous waste, "point of waste origination" means the point where the

9700 owner or operator accepts delivery or takes possession of the hazardous

9701 waste.

9702

9703 "Point of waste treatment" means the point where a hazardous waste to be treated

9704 in accordance with Section 725.983(c)(2) exits the treatment process. Any waste

9705 determination must be made before the waste is conveyed, handled, or otherwise

9706 managed in a manner that allows the waste to volatilize to the atmosphere.

9707

9708 "Safety device" means a closure device, such as a pressure relief valve, frangible

9709 disc, fusible plug, or any other type of device that functions exclusively to prevent

9710 physical damage or permanent deformation to a unit or its air emission control

9711 equipment by venting gases or vapors directly to the atmosphere during unsafe

9712 conditions resulting from an unplanned, accidental, or emergency event. For the

9713 purpose of this Subpart CC, a safety device is not used for routine venting of

9714 gases or vapors from the vapor headspace underneath a cover such as during

9715 filling of the unit or to adjust the pressure in this vapor headspace in response to

9716 normal daily diurnal ambient temperature fluctuations. A safety device is

9717 designed to remain in a closed position during normal operations and open only

9718 when the internal pressure, or another relevant parameter, exceeds the device

9719 threshold setting applicable to the air emission control equipment as determined

9720 by the owner or operator based on manufacturer recommendations, applicable

9721 regulations, fire protection and prevention codes, standard engineering codes and

9722 practices, or other requirements for the safe handling of flammable, ignitable,

9723 explosive, reactive, or hazardous materials.

9724

9725 "Single-seal system" means a floating roof having one continuous seal. This seal

9726 may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

9727

9728 "Vapor-mounted seal" means a continuous seal that is mounted so that there is a

9729 vapor space between the hazardous waste in the unit and the bottom of the seal.

9730

9731 "Volatile organic concentration" or "VO concentration" means the fraction by

9732 weight of organic compounds contained in a hazardous waste expressed in terms

9733 of parts per million (ppmw), as determined by direct measurement or by

9734 knowledge of the waste, in accordance with the requirements of Section 725.984.

9735 For the purpose of determining the VO concentration of a hazardous waste,

9736 organic compounds with a Henry's law constant value of at least 0.1 mole-

9737 fraction-in-the-gas-phase/mole- fraction-in-the-liquid-phase (0.1 Y/X) (which can

9738 also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25° C (77° F) must

9739 be included. Appendix F of this Part presents a list of compounds known to have a  
 9740 Henry's law constant value less than the cutoff level.

9741  
 9742 "Waste determination" means performing all applicable procedures in accordance  
 9743 with the requirements of Section 725.984 to determine whether a hazardous waste  
 9744 meets standards specified in this Subpart CC. Examples of a waste determination  
 9745 include performing the procedures in accordance with the requirements of Section  
 9746 725.984 to determine the average VO concentration of a hazardous waste at the  
 9747 point of waste origination, determining the average VO concentration of a  
 9748 hazardous waste at the point of waste treatment and comparing the results to the  
 9749 exit concentration limit specified for the process used to treat the hazardous  
 9750 waste, the organic reduction efficiency and the organic biodegradation efficiency  
 9751 for a biological process used to treat a hazardous waste and comparing the results  
 9752 to the applicable standards, or determining the maximum volatile organic vapor  
 9753 pressure for a hazardous waste in a tank and comparing the results to the  
 9754 applicable standards.

9755  
 9756 "Waste stabilization process" means any physical or chemical process used to  
 9757 either reduce the mobility of hazardous constituents in a hazardous waste or  
 9758 eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids  
 9759 Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"  
 9760 USEPA publication number EPA 530/SW-846, incorporated by reference in 35  
 9761 Ill. Adm. Code 720.111(a). A waste stabilization process includes mixing the  
 9762 hazardous waste with binders or other materials and curing the resulting  
 9763 hazardous waste and binder mixture. Other synonymous terms used to refer to  
 9764 this process are "waste fixation" or "waste solidification." This does not include  
 9765 the addition of absorbent materials to the surface of a waste to absorb free liquid  
 9766 without mixing, agitation, or subsequent curing.

9767  
 9768 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 9769

9770 **Section 725.982 Schedule for Implementation of Air Emission Standards**

9771  
 9772 a) This subsection (a) corresponds with 40 CFR 265.1082(a), which required  
 9773 compliance before dates long past. This statement maintains structural  
 9774 consistency with the corresponding federal rules. An owner or operator of a  
 9775 facility in existence on December 6, 1996 and subject to Subpart I, J, or K of this  
 9776 Part must meet the following requirements:

- 9777  
 9778 1) The owner or operator must install and begin operation of all control  
 9779 equipment required to comply with this Subpart CC and complete  
 9780 modifications of production or treatment processes to satisfy exemption  
 9781 criteria in accordance with Section 725.983(e) by December 6, 1996,

- 9782 except as provided in subsection (a)(2) of this Section; and  
 9783  
 9784 2) When control equipment or waste management units required to comply  
 9785 with this Subpart CC cannot be installed and in operation or modifications  
 9786 of production or treatment processes to satisfy exemption criteria in  
 9787 accordance with Section 725.983(e) cannot be completed by December 6,  
 9788 1996, the owner or operator must do the following:  
 9789  
 9790 A) Install and begin operation of the control equipment and waste  
 9791 management units, and complete modifications of production or  
 9792 treatment processes as soon as possible but no later than December  
 9793 8, 1997;  
 9794  
 9795 B) Prepare an implementation schedule that includes the following  
 9796 information: specific calendar dates for award of contracts or  
 9797 issuance of purchase orders for the control equipment, waste  
 9798 management units, and production or treatment process  
 9799 modifications; the dates of initiation of on-site installation of the  
 9800 control equipment, or waste management units, and modifications  
 9801 of production or treatment processes; the dates of completion of  
 9802 the control equipment or waste management unit installation, and  
 9803 production or treatment process modifications; and the dates of  
 9804 performance of testing to demonstrate that the installed equipment  
 9805 or waste management units, and modified production or treatment  
 9806 processes, meet the applicable standards of this Subpart CC;  
 9807  
 9808 C) For a facility subject to the recordkeeping requirements of Section  
 9809 725.173, the owner or operator must enter the implementation  
 9810 schedule specified in subsection (a)(2)(B) of this Section in the  
 9811 operating record no later than December 6, 1996; and  
 9812  
 9813 D) For a facility not subject to Section 725.173 of this Section, the  
 9814 owner or operator must enter the implementation schedule  
 9815 specified in subsection (a)(2)(B) of this section in a permanent,  
 9816 readily available file located at the facility no later than December  
 9817 6, 1996.  
 9818  
 9819 b) An owner or operator of a facility or unit in existence on the effective date of  
 9820 statutory or regulatory amendments under the Act that render the facility subject  
 9821 to Subpart I, J, or K of this Part must meet the following requirements:  
 9822  
 9823 1) The owner or operator must install and begin operation of all control  
 9824 equipment required to comply with this Subpart CC and complete

9825 modifications of production or treatment processes to satisfy exemption  
 9826 criteria of Section 725.983(c) by the effective date of the amendment,  
 9827 except as provided in subsection (b)(2) of this Section.  
 9828

9829 2) When control equipment or waste management units required to comply  
 9830 with this Subpart CC cannot be installed and begin operation or when  
 9831 modifications of production or treatment processes to satisfy the  
 9832 exemption criteria of Section 725.983(c) cannot be completed by the  
 9833 effective date of the amendment, the owner or operator must undertake the  
 9834 following actions:  
 9835

9836 A) Install and begin operation of the control equipment or waste  
 9837 management unit and complete modification of production or  
 9838 treatment processes as soon as possible, but no later than 30  
 9839 months after the effective date of the amendment; and  
 9840

9841 B) Maintenance of implementation schedule.  
 9842

9843 i) For facilities subject to the recordkeeping requirements of  
 9844 Section 725.173, enter and maintain the implementation  
 9845 schedule specified in subsection (a)(2)(B) of this Section in  
 9846 the operating record no later than the effective date of the  
 9847 amendment, or  
 9848

9849 ii) For facilities not subject to Section 725.173, the owner or  
 9850 operator must enter and maintain the implementation  
 9851 schedule specified in subsection (a)(2)(B) of this Section in  
 9852 a permanent, readily available file located at the facility site  
 9853 no later than the effective date of the amendment.  
 9854

9855 c) The owner or operator of a facility or unit that becomes newly subject to the  
 9856 requirements of this Subpart CC after December 8, 1997 due to an action other  
 9857 than those described in subsection (b) of this Section must comply with all  
 9858 applicable requirements immediately (i.e., the owner or operator must have  
 9859 control devices installed and operating on the date the facility or unit becomes  
 9860 subject to the requirements of this Subpart CC; the 30-month implementation  
 9861 schedule does not apply to the owner or operator of such a facility).  
 9862

9863 d) This subsection (d) corresponds with 40 CFR 265.1082(d), which allowed  
 9864 extension of a long-past compliance date. This statement maintains structural  
 9865 consistency with the federal rule. The Board will grant an adjusted standard  
 9866 pursuant to Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104 that  
 9867 extends the implementation date for control equipment at a facility to a date later

9868 than December 8, 1997 when the facility owner or operator proves the following:

- 9869
- 9870 1) That special circumstances beyond the facility owner's or operator's control have
  - 9871 delayed or will delay installation or operation of control equipment; and
  - 9872
  - 9873 2) That the owner or operator has made all reasonable and prudent attempts to
  - 9874 comply with the requirements of this Subpart CC.
  - 9875

9876 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

9877

9878 **Section 725.983 Standards: General**

- 9879
- 9880 a) This Section applies to the management of hazardous waste in tanks, surface
  - 9881 impoundments, and containers subject to this Subpart CC.
  - 9882
  - 9883 b) The owner or operator must control air pollutant emissions from each hazardous
  - 9884 waste management unit in accordance with the standards specified in Sections
  - 9885 725.985 through 725.988, as applicable to the hazardous waste management unit,
  - 9886 except as provided for in subsection (c).
  - 9887
  - 9888 c) A tank, surface impoundment, or container is exempted from standards specified
  - 9889 in Sections 725.985 through 725.988, provided that all hazardous waste placed in
  - 9890 the waste management unit is one of the following:
  - 9891
  - 9892 1) A tank, surface impoundment, or container for which all hazardous waste
  - 9893 entering the unit has an average VO concentration at the point of waste
  - 9894 origination of less than 500 parts per million by weight (ppmw). The
  - 9895 average VO concentration must be determined by the procedures specified
  - 9896 in Section 725.984(a). The owner or operator must review and update, as
  - 9897 necessary, this determination at least once every 12 months following the
  - 9898 date of the initial determination for the hazardous waste streams entering
  - 9899 the unit;
  - 9900
  - 9901 2) A tank, surface impoundment, or container for which the organic content
  - 9902 of all the hazardous waste entering the waste management unit has been
  - 9903 reduced by an organic destruction or removal process that achieves any
  - 9904 one of the following conditions:
  - 9905
  - 9906 A) The process removes or destroys the organics contained in the
  - 9907 hazardous waste to such a level that the average VO concentration
  - 9908 of the hazardous waste at the point of waste treatment is less than
  - 9909 the exit concentration limit ( $C_t$ ) established for the process. The
  - 9910 average VO concentration of the hazardous waste at the point of

waste treatment and the exit concentration limit for the process must be determined using the procedures specified in Section 725.984(b);

B) The process removes or destroys the organics contained in the hazardous waste to such a level that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the average VO concentration of the hazardous waste at the point of waste treatment is less than 100 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste treatment must be determined using the procedures specified in Section 725.984(b);

C) The process removes or destroys the organics contained in the hazardous waste to such a level that the actual organic mass removal rate (MR) for the process is equal to or greater than the required organic mass removal rate (RMR) established for the process. The required organic mass removal rate and the actual organic mass removal rate for the process must be determined using the procedures specified in Section 725.984(b);

D) The process is a biological process that destroys or degrades the organics contained in the hazardous waste so that either of the following conditions is met:

i) The organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the organic biodegradation efficiency ( $R_{bio}$ ) for the process is equal to or greater than 95 percent. The organic reduction efficiency and the organic biodegradation efficiency for the process must be determined using the procedures specified in Section 725.984(b); and

ii) The total actual organic mass biodegradation rate ( $MR_{bio}$ ) for all hazardous waste treated by the process is equal to or greater than the required organic mass removal rate (RMR). The required organic mass removal rate and the actual organic mass biodegradation rate for the process must be determined using the procedures specified in Section 725.984(b);

E) The process is one that removes or destroys the organics contained

9954 in the hazardous waste and meets all of the following conditions:  
9955

9956 i) From the point of waste origination through the point  
9957 where the hazardous waste enters the treatment process, the  
9958 hazardous waste is continuously managed in waste  
9959 management units that use air emission controls in  
9960 accordance with the standards specified in Section 725.985  
9961 through Section 725.988, as applicable to the waste  
9962 management unit;

9963  
9964 ii) From the point of waste origination through the point  
9965 where the hazardous waste enters the treatment process,  
9966 any transfer of the hazardous waste is accomplished  
9967 through continuous hard-piping or other closed system  
9968 transfer that does not allow exposure of the waste to the  
9969 atmosphere;

9970  
9971 BOARD NOTE: The USEPA considers a drain system that  
9972 meets the requirements of federal subpart RR of 40 CFR  
9973 63(National Emission Standards for Individual Drain  
9974 Systems) to be a closed system.  
9975

9976 iii) The average VO concentration of the hazardous waste at  
9977 the point of waste treatment is less than the lowest average  
9978 VO concentration at the point of waste origination  
9979 determined for each of the individual hazardous waste  
9980 streams entering the process or 500 ppmw, whichever value  
9981 is lower. The average VO concentration of each individual  
9982 hazardous waste stream at the point of waste origination  
9983 must be determined using the procedures specified in  
9984 Section 725.984(a). The average VO concentration of the  
9985 hazardous waste at the point of waste treatment must be  
9986 determined using the procedures specified in Section  
9987 725.984(b);  
9988

9989 F) A process that removes or destroys the organics contained in the  
9990 hazardous waste to a level such that the organic reduction  
9991 efficiency (R) for the process is equal to or greater than 95 percent  
9992 and the owner or operator certifies that the average VO  
9993 concentration at the point of waste origination for each of the  
9994 individual waste streams entering the process is less than 10,000  
9995 ppmw. The organic reduction efficiency for the process and the  
9996 average VO concentration of the hazardous waste at the point of

waste origination must be determined using the procedures specified in Sections 725.984(b) and 725.984(a), respectively;

G) A hazardous waste incinerator for which either of the following conditions is true:

i) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart O of 35 Ill. Adm. Code 724; or

ii) The owner or operator has designed and operates the incinerator in accordance with the interim status requirements of Subpart O of this Part;

H) A boiler or industrial furnace for which either of the following conditions is true:

i) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart H of 35 Ill. Adm. Code 726; or

ii) The owner or operator has designed and operates the industrial furnace or incinerator in accordance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726; and

I) For the purpose of determining the performance of an organic destruction or removal process in accordance with the conditions in each of subsections (c)(2)(A) through (c)(2)(F), the owner or operator must account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

i) If Reference 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), is used for the analysis, one-half the blank value determined in the method at Section 4.4 of Reference Method 25D or a value of 25 ppmw, whichever is less; and

ii) If any other analytical method is used, one-half the sum of the limits of detection established for each organic

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- 10040 constituent in the waste that has a Henry's law constant  
10041 value at least 0.1 mole-fraction-in-the-gas-phase/mole-  
10042 fraction-in-the-liquid-phase (0.1 Y/X) (which can also be  
10043 expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25°  
10044 C;  
10045
- 10046 3) A tank or surface impoundment used for biological treatment of hazardous  
10047 waste in accordance with the requirements of subsection (c)(2)(D);  
10048
- 10049 4) A tank, surface impoundment, or container for which all hazardous waste  
10050 placed in the unit fulfills either of the following two conditions:  
10051
- 10052 A) It meets the numerical concentration limits for organic hazardous  
10053 constituents, applicable to the hazardous waste, as specified in  
10054 Table T to 35 Ill. Adm. Code 728; or  
10055
- 10056 B) The organic hazardous constituents in the waste have been treated  
10057 by the treatment technology established by USEPA for the waste,  
10058 as set forth in 35 Ill. Adm. Code 728.142(a), or treated by an  
10059 equivalent method of treatment approved by the Agency pursuant  
10060 to 35 Ill. Adm. Code 728.142(b); or  
10061
- 10062 5) A tank used for bulk feed of hazardous waste to a waste incinerator, and  
10063 all of the following conditions are met:  
10064
- 10065 A) The tank is located inside an enclosure vented to a control device  
10066 that is designed and operated in accordance with all applicable  
10067 requirements specified under federal subpart FF of 40 CFR  
10068 61(National Emission Standards for Benzene Waste Operations),  
10069 incorporated by reference in 35 Ill. Adm. Code 720.111(b), for a  
10070 facility at which the total annual benzene quantity from the facility  
10071 waste is equal to or greater than 10 megagrams (11 tons) per year;  
10072
- 10073 B) The enclosure and control device serving the tank were installed  
10074 and began operation prior to November 25, 1996; and  
10075
- 10076 C) The enclosure is designed and operated in accordance with the  
10077 criteria for a permanent total enclosure as specified in "Procedure  
10078 T – Criteria for and Verification of a Permanent or Temporary  
10079 Total Enclosure" under appendix B to 40 CFR 52.741 (VOM  
10080 Measurement Techniques for Capture Efficiency), incorporated by  
10081 reference in 35 Ill. Adm. Code 720.111(b). The enclosure may  
10082 have permanent or temporary openings to allow worker access;

10083 passage of material into or out of the enclosure by conveyor,  
10084 vehicles, or other mechanical or electrical equipment; or to direct  
10085 air flow into the enclosure. The owner or operator must perform  
10086 the verification procedure for the enclosure as specified in Section  
10087 5.0 of "Procedure T – Criteria for and Verification of a Permanent  
10088 or Temporary Total Enclosure" annually.  
10089

- 10090 d) The Agency may at any time perform or request that the owner or operator  
10091 perform a waste determination for a hazardous waste managed in a tank, surface  
10092 impoundment, or container that is exempted from using air emission controls  
10093 under the provisions of this Section as follows:  
10094
- 10095 1) The waste determination for average VO concentration of a hazardous  
10096 waste at the point of waste origination must be performed using direct  
10097 measurement in accordance with the applicable requirements of Section  
10098 725.984(a). The waste determination for a hazardous waste at the point of  
10099 waste treatment must be performed in accordance with the applicable  
10100 requirements of Section 725.984(b);  
10101
  - 10102 2) In performing a waste determination pursuant to subsection (d)(1), the  
10103 sample preparation and analysis must be conducted as follows:  
10104
    - 10105 A) In accordance with the method used by the owner or operator to  
10106 perform the waste analysis, except in the case specified in  
10107 subsection (d)(2)(B); and  
10108
    - 10109 B) If the Agency determines that the method used by the owner or  
10110 operator was not appropriate for the hazardous waste managed in  
10111 the tank, surface impoundment, or container, then the Agency may  
10112 choose an appropriate method;  
10113
  - 10114 3) Where the owner or operator is requested to perform the waste  
10115 determination, the Agency may elect to have an authorized representative  
10116 observe the collection of the hazardous waste samples used for the  
10117 analysis;  
10118
  - 10119 4) Where the results of the waste determination performed or requested by  
10120 the Agency do not agree with the results of a waste determination  
10121 performed by the owner or operator using knowledge of the waste, then  
10122 the results of the waste determination performed in accordance with the  
10123 requirements of subsection (d)(1) must be used to establish compliance  
10124 with the requirements of this Subpart CC; and  
10125

- 10126 5) Where the owner or operator has used an averaging period greater than
- 10127 one hour for determining the average VO concentration of a hazardous
- 10128 waste at the point of waste origination, the Agency may elect to establish
- 10129 compliance with this Subpart CC by performing or requesting that the
- 10130 owner or operator perform a waste determination using direct
- 10131 measurement, based on waste samples collected within a 1-hour period, as
- 10132 follows:
- 10133
- 10134 A) The average VO concentration of the hazardous waste at the point
- 10135 of waste origination must be determined by direct measurement in
- 10136 accordance with the requirements of Section 725.984(a);
- 10137
- 10138 B) Results of the waste determination performed or requested by the
- 10139 Agency showing that the average VO concentration of the
- 10140 hazardous waste at the point of waste origination is equal to or
- 10141 greater than 500 ppmw must constitute noncompliance with this
- 10142 Subpart CC, except in a case as provided for in subsection
- 10143 (d)(5)(C); and
- 10144
- 10145 C) Where the average VO concentration of the hazardous waste at the
- 10146 point of waste origination previously has been determined by the
- 10147 owner or operator using an averaging period greater than one hour
- 10148 to be less than 500 ppmw but because of normal operating process
- 10149 variations the VO concentration of the hazardous waste determined
- 10150 by direct measurement for any given 1-hour period may be equal
- 10151 to or greater than 500 ppmw, information that was used by the
- 10152 owner or operator to determine the average VO concentration of
- 10153 the hazardous waste (e.g., test results, measurements, calculations,
- 10154 and other documentation) and recorded in the facility records in
- 10155 accordance with the requirements of Sections 725.984(a) and
- 10156 725.990 must be considered by the Agency together with the
- 10157 results of the waste determination performed or requested by the
- 10158 Agency in establishing compliance with this Subpart CC.
- 10159

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

**Section 725.984 Waste Determination Procedures**

- 10162
- 10163
- 10164 a) Determination of Volatile Organic (VO) Concentration at the Point of Waste
- 10165 Origination.
- 10166
- 10167 1) An owner or operator must determine the average VO concentration at the
- 10168 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), 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), or by knowledge of the waste, as specified in subsection (a)(4).

3) Direct Measurement.

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

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- 10212 recorded. The averaging period can represent any time  
 10213 interval that the owner or operator determines is  
 10214 appropriate for the hazardous waste stream but must not  
 10215 exceed one year.
- 10216
- 10217 ii) A sufficient number of samples, but no fewer than four  
 10218 samples, must be collected for a hazardous waste  
 10219 determination. All of the samples for a given waste  
 10220 determination must be collected within a one-hour period.  
 10221 The average of the four or more sample results constitutes a  
 10222 waste determination for the waste stream. One or more  
 10223 waste determinations may be required to represent the  
 10224 complete range of waste compositions and quantities that  
 10225 occur during the entire averaging period due to normal  
 10226 variations in the operating conditions for the source or  
 10227 process generating the hazardous waste stream. Examples  
 10228 of such normal variations are seasonal variations in waste  
 10229 quantity or fluctuations in ambient temperature.
- 10230
- 10231 iii) All samples must be collected and handled in accordance  
 10232 with written procedures prepared by the owner or operator  
 10233 and documented in a site sampling plan. This plan must  
 10234 describe the procedure by which representative samples of  
 10235 the hazardous waste stream are collected so that a  
 10236 minimum loss of organics occurs throughout the sample  
 10237 collection and handling process, and by which sample  
 10238 integrity is maintained. A copy of the written sampling  
 10239 plan must be maintained on-site in the facility operating  
 10240 records. An example of an acceptable sampling plan  
 10241 includes a plan incorporating sample collection and  
 10242 handling procedures in Reference Method 25D  
 10243 (Determination of the Volatile Organic Concentration of  
 10244 Waste Samples) in appendix A to 40 CFR 60 (Test  
 10245 Methods), incorporated by reference in 35 Ill. Adm. Code  
 10246 720.111(b).
- 10247
- 10248 iv) Sufficient information, as specified in the "site sampling  
 10249 plan" required under subsection (a)(3)(B)(iii), must be  
 10250 prepared and recorded to document the waste quantity  
 10251 represented by the samples and, as applicable, the operating  
 10252 conditions for the source or process generating the  
 10253 hazardous waste represented by the samples.
- 10254

- 10255 C) Analysis. Each collected sample must be prepared and analyzed in  
 10256 accordance with Reference Method 25D in appendix A to 40 CFR  
 10257 60 for the total concentration of volatile organic constituents or  
 10258 using one or more methods when the individual organic compound  
 10259 concentrations are identified and summed and the summed waste  
 10260 concentration accounts for and reflects all organic compounds in  
 10261 the waste with Henry's law constant values at least 0.1 mole-  
 10262 fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1  
 10263 Y/X) (which can also be expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-  
 10264 mole/m<sup>3</sup>) at 25° C (77° F). At the owner's or operator's discretion,  
 10265 the owner or operator may adjust test data measured by any  
 10266 appropriate method to discount any contribution to the total  
 10267 volatile organic concentration that is a result of including a  
 10268 compound with a Henry's law constant value of less than 0.1 Y/X  
 10269 at 25° C (77° F). If the owner or operator elects to adjust test data,  
 10270 the adjustment must be made to all individual chemical  
 10271 constituents with a Henry's law constant value greater than or  
 10272 equal to 0.1 Y/X at 25° C contained in the waste. To adjust these  
 10273 data, the measured concentration of each individual chemical  
 10274 constituent contained in the waste is multiplied by the constituent-  
 10275 specific adjustment factors ( $f_{m25D}$ ) approved in writing by the  
 10276 Agency. Other test methods may be used if they meet the  
 10277 requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) and  
 10278 provided the requirement is met to reflect all organic compounds in  
 10279 the waste with Henry's law constant values greater than or equal to  
 10280 0.1 Y/X (which can also be expressed as  $1.8 \times 10^{-6}$   
 10281 atmospheres/gram-mole/m<sup>3</sup>) at 25° C.  
 10282  
 10283 i) Any USEPA standard method that has been validated in  
 10284 accordance with appendix D to 40 CFR 63 (Alternative  
 10285 Validation Procedure for EPA Waste and Wastewater  
 10286 Methods), incorporated by reference in 35 Ill. Adm. Code  
 10287 720.111(b); or  
 10288  
 10289 ii) Any other analysis method that has been validated in  
 10290 accordance with the procedures specified in Section 5.1 or  
 10291 5.3, and the corresponding calculations in Section 6.1 or  
 10292 6.3, of Method 301 (Field Validation of Pollutant  
 10293 Measurement Methods from Various Waste Media) in  
 10294 appendix A to 40 CFR 63 (Test Methods), incorporated by  
 10295 reference in 35 Ill. Adm. Code 720.111(b). The data are  
 10296 acceptable if they meet the criteria specified in Section  
 10297 6.1.5 or 6.3.3 of Method 301. If correction is required

10298 under Section 6.3.3 of Method 301, the data are acceptable  
 10299 if the correction factor is within the range 0.7 to 1.30.  
 10300 Other sections of Method 301 are not required.

10301  
 10302 D) Calculations.

10303  
 10304 i) The average VO concentration ( $\bar{C}$ ) on a mass-weighted  
 10305 basis must be calculated by using the results for all waste  
 10306 determinations conducted in accordance with subsections  
 10307 (a)(3)(B) and (a)(3)(C) and the following equation:  
 10308

10309 
$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

10310  
 10311 Where:  
 10312

- $\bar{C}$  = 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; and
- $C_i$  = Measured VO concentration of waste determination "i," as determined in accordance with subsection (a)(3)(C) (i.e., the average of the four or more samples specified in subsection (a)(3)(B)(ii)), in ppmw.

10313  
 10314 ii) For the purpose of determining  $C_i$ , for individual waste  
 10315 samples analyzed in accordance with subsection (a)(3)(C),  
 10316 the owner or operator must account for VO concentrations  
 10317 determined to be below the limit of detection of the  
 10318 analytical method by using the VO concentration  
 10319 determined according to subsection (a)(3)(G).  
 10320

10321 E) Provided that the test method is appropriate for the waste as  
 10322 required under subsection (a)(3)(C), the Agency must determine

10323 compliance based on the test method used by the owner or operator  
10324 as recorded pursuant to Section 725.990(f)(1).

- 10325  
10326 F) The quality assurance program elements required under  
10327 subsections (a)(3)(C)(vi) and (a)(3)(C)(vii) are as follows:  
10328  
10329 i) Documentation of site-specific procedures to minimize the  
10330 loss of compounds due to volatilization, biodegradation,  
10331 reaction, or sorption during the sample collection, storage,  
10332 preparation, introduction, and analysis steps.  
10333  
10334 ii) Measurement of the overall accuracy and precision of the  
10335 specific procedures.  
10336

10337 BOARD NOTE: Subsections (a)(3)(F)(i) and (a)(3)(F)(ii) are  
10338 derived from 40 CFR 265.984(a)(3)(iii)(F)(1), (a)(3)(iii)(F)(2),  
10339 (a)(3)(iii)(G)(1), and (a)(3)(iii)(G)(2), which the Board has  
10340 codified here to comport with Illinois Administrative Code format  
10341 requirements.  
10342

- 10343 G) VO concentrations below the limit of detection must be considered  
10344 to be as follows:

- 10345  
10346 i) If Reference Method 25D is used for the analysis, the VO  
10347 concentration must be considered to be one-half the blank  
10348 value determined in the method at Section 4.4 of Reference  
10349 Method 25D.  
10350  
10351 ii) If any other analytical method is used, the VO  
10352 concentration must be considered to be one-half the sum of  
10353 the limits of detection established for each organic  
10354 constituent in the waste that has a Henry's law constant  
10355 value at least 0.1 mole-fraction-in-the-gas-phase/mole-  
10356 fraction-in-the-liquid-phase (0.1 Y/X) (which can also be  
10357 expressed as  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25°  
10358 C.  
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10360 BOARD NOTE: Subsections (a)(3)(G)(i) and (a)(3)(G)(ii) are  
10361 derived from 40 CFR 265.984(a)(3)(iv)(A)(1) and (a)(3)(iv)(A)(2),  
10362 which the Board has codified here to comport with Illinois  
10363 Administrative Code format requirements.  
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- 10365 4) Use of Owner or Operator Knowledge.

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- 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 Reference 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), 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).

- 10409           b)     Determination of VO Concentration at the Point of Waste Treatment.  
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10411           1)     An owner or operator must perform the applicable waste determination for  
10412                 each treated hazardous waste placed in a waste management unit  
10413                 exempted under the provisions of Section 725.983(c)(2)(A) through  
10414                 (c)(2)(F) from using air emission controls in accordance with the standards  
10415                 specified in Sections 725.985 through 725.988, as applicable to the waste  
10416                 management unit.  
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10418                 A)     An owner or operator must make an initial determination of the  
10419                 average VO concentration of the waste stream before the first time  
10420                 any portion of the material in the treated waste stream is placed in  
10421                 the waste management unit exempt under Section 725.983(c)(2),  
10422                 (c)(3), or (c)(4) from using air emission controls. Thereafter, an  
10423                 owner or operator must update the information used for the waste  
10424                 determination at least once every 12 months following the date of  
10425                 the initial waste determination.  
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10427                 B)     An owner or operator must perform a new waste determination  
10428                 whenever changes to the process generating or treating the waste  
10429                 stream are reasonably likely to cause the average VO concentration  
10430                 of the hazardous waste to increase to such a level that the  
10431                 applicable treatment conditions specified in Section 725.983(c)(2),  
10432                 (c)(3), or (c)(4) are not achieved.  
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10434           2)     The owner or operator must designate and record the specific provision in  
10435                 Section 725.983(c)(2) under which the waste determination is being  
10436                 performed. The waste determination for the treated hazardous waste must  
10437                 be performed using the applicable procedures specified in subsections  
10438                 (b)(3) through (b)(9).  
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10440           3)     Procedure for Determination of VO Concentration.  
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10442                 A)     Identification. The owner or operator must identify and record the  
10443                 point of waste treatment for the hazardous waste.  
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10445                 B)     Sampling. Samples of the hazardous waste stream must be  
10446                 collected at the point of waste treatment in such a manner that  
10447                 volatilization of organics contained in the waste and in the  
10448                 subsequent sample is minimized and an adequately representative  
10449                 sample is collected and maintained for analysis by the selected  
10450                 method.  
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- 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 Reference Method 25D.
  - iv) Sufficient information, as specified in the "site sampling plan" required under subsection (a)(3)(B)(iii), 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.

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- C) Analysis. Each collected sample must be prepared and analyzed in accordance with Reference 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25° C (77° 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. 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. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factor ( $f_{m25D}$ ) approved in writing by the Agency. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) 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

10537 6.3, of Method 301 in appendix A to 40 CFR 63,  
 10538 incorporated by reference in 35 Ill. Adm. Code 720.111(b).  
 10539 The data are acceptable if they meet the criteria specified in  
 10540 Section 6.1.5 or 6.3.3 of Method 301. If correction is  
 10541 required under Section 6.3.3 of Method 301, the data are  
 10542 acceptable if the correction factor is within the range 0.7 to  
 10543 1.30. Other sections of Method 301 are not required.  
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10545 D) Calculations. The average VO concentration ( $\bar{C}$ ) on a mass-  
 10546 weighted basis must be calculated by using the results for all  
 10547 samples analyzed in accordance with subsection (b)(3)(C) and the  
 10548 following equation:  
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$$\bar{C} = \frac{1}{Q_T} \times \sum_{i=1}^n (Q_i \times C_i)$$

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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; and
- $C_i$  = Measured VO concentration of waste determinations "i", as determined in accordance with the requirements of subsection (b)(3)(C) (i.e., the average of the four or more samples specified in subsection (b)(3)(B)(ii)), in ppmw.

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E) Provided that the test method is appropriate for the waste as required under subsection (b)(3)(C), 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 for Determination of Exit Concentration Limit ( $C_i$ ).

- 10562 A) The point of waste origination for each hazardous waste treated by  
 10563 the process at the same time must be identified.  
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 10565 B) If a single hazardous waste stream is identified in subsection  
 10566 (b)(4)(A), then the exit concentration limit ( $C_t$ ) must be 500 ppmw.  
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 10568 C) If more than one hazardous waste stream is identified in subsection  
 10569 (b)(4)(A), then the average VO concentration of each hazardous  
 10570 waste stream at the point of waste origination must be determined  
 10571 in accordance with the requirements of subsection (a). The exit  
 10572 concentration limit ( $C_t$ ) must be calculated by using the results  
 10573 determined for each individual hazardous waste stream and the  
 10574 following equation:  
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$$C_t = \frac{\sum_{x=1}^m (Q_x \times \bar{C}_x) + \sum_{y=1}^n (Q_y \times 500 \text{ ppmw})}{\sum_{x=1}^m Q_x + \sum_{y=1}^n Q_y}$$

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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);
- $y$  = 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);
- $m$  = 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; and
- $\bar{C}_x$  = Average VO concentration of hazardous waste stream "x" at the point of waste origination, as

determined in accordance with the requirements of subsection (a), in ppmw.

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- 5) Procedure for Determination of Organic Reduction Efficiency (R).
- 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), 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). 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).
  - 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) and the following equations:

$$E_b = \frac{1}{10^6} \sum_{j=1}^m (Q_{bj} \times \overline{C_{bj}})$$

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$$E_a = \frac{1}{10^6} \sum_{j=1}^m (Q_{aj} \times \overline{C_{aj}})$$

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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), in ppmw; and
- $\overline{C_{bj}}$  = Average VO concentration of hazardous waste entering the process during run "j", as determined in accordance with the requirements of subsection (a)(3), in ppmw.

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- E) The organic reduction efficiency of the process must be calculated by using the results determined in accordance with subsection (b)(5)(D) and the following equation:

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$$R = \frac{E_b - E_a}{E_b} \times 100\%$$

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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), in kg/hr; and
- $E_a$  = Waste volatile organic mass flow exiting the process, as determined in accordance with the requirements of subsection (b)(5)(D), in kg/hr.

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- 6) Procedure for Determination of Organic Biodegradation Efficiency ( $R_{bio}$ ).

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- 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:

$$R_{bio} = F_{bio} \times 100\%$$

Where:

- $R_{bio}$  = Organic biodegradation efficiency, in percent;  
and
- $F_{bio}$  = Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b)(6)(A).

- 7) Procedure for Determination of Required Organic Mass Removal Rate (RMR).
  - 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).
  - 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:

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$$RMR = \sum_{y=1}^n \left[ V_y \times k_y \times \frac{(\bar{C}_y - 500 \text{ppmw})}{10^6} \right]$$

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);
- n = Total number of "y" hazardous waste streams treated by process;
- V<sub>y</sub> = Average volumetric flow rate of hazardous waste stream "y" at the point of waste origination, in m<sup>3</sup>/hr;
- k<sub>y</sub> = Density of hazardous waste stream "y," in kg/m<sup>3</sup>; and
- $\bar{C}_y$  = Average VO concentration of hazardous waste stream "y" at the point of waste origination, as determined in accordance with the requirements of subsection (a), in ppmw.

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8) Procedure for Determination of Actual Organic Mass Removal Rate (MR).

- 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<sub>b</sub>) and the waste volatile organic mass flow exiting the process (E<sub>a</sub>) must be determined in accordance with the requirements of subsection (b)(5)(D).
- 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) and the following equation:

$$MR = E_b - E_a$$

Where:

- MR = Actual organic mass removal rate, in kg/hr;
- E<sub>b</sub> = Waste volatile organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D), in kg/hr; and
- E<sub>a</sub> = Waste volatile organic mass flow exiting the process, as determined in accordance with the requirements of subsection (b)(5)(D), in kg/hr.

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9) Procedure for Determination of Actual Organic Mass Biodegradation Rate (MR<sub>bio</sub>).

- A) The actual organic mass biodegradation rate (MR<sub>bio</sub>) 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<sub>b</sub>) must be determined in accordance with the requirements of subsection (b)(5)(D).
- C) The fraction of organic biodegraded (F<sub>bio</sub>) must be determined using the procedure specified in appendix C to 40 CFR 63 (Determination of the Fraction Biodegraded (F<sub>bio</sub>) in a Biological Treatment Unit), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- D) The actual organic mass biodegradation rate (MR<sub>bio</sub>) 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), respectively, and the following equation:

$$MR_{bio} = E_b \times F_{bio}$$

Where:

- MR<sub>bio</sub> = Actual organic mass biodegradation rate, in kg/hr;
- E<sub>b</sub> = Waste organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D), in kg/hr; and

$F_{\text{bio}}$  = Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b)(9)(C).

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- c) Procedure for Determination of VO 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), or knowledge of the waste, as specified by subsection (c)(4), 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 VO.
      - 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 Reference 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) Reference 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);

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- 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 Reference 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.

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- 3) The detection instrument must meet the performance criteria of Reference Method 21, except the instrument response factor criteria in Section 3.1.2(a) of Reference 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 Reference 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 Reference 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 Reference Method 21. If the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface must be sampled. If 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). 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 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 725.986 Standards: Surface Impoundments**

- a) The provisions of this Section apply to the control of air pollutant emissions from surface impoundments for which Section 725.983(b) of this Subpart CC references the use of this Section for such air emission control.
- b) The owner or operator must control air pollutant emissions from the surface impoundment by installing and operating either of the following:
  - 1) A floating membrane cover in accordance with the provisions specified in subsection (c) ~~of this Section~~; or
  - 2) A cover that is vented through a closed-vent system to a control device in accordance with the requirements specified in subsection (d) ~~of this Section~~.
- c) The owner or operator that controls air pollutant emissions from a surface impoundment using a floating membrane cover must meet the requirements specified in subsections (c)(1) through (c)(3) ~~of this Section~~.
  - 1) The surface impoundment must be equipped with a floating membrane cover designed to meet the following specifications:
    - A) The floating membrane cover must be designed to float on the liquid surface during normal operations and form a continuous barrier over the entire surface area of the liquid;
    - B) The cover must be fabricated from a synthetic membrane material that is either of the following:
      - i) High density polyethylene (HDPE) with a thickness no less than 2.5 millimeters (mm) (0.10 inch); or
      - ii) A material or a composite of different materials determined to have both organic permeability properties that are equivalent to those of the material listed in subsection (c)(1)(B)(i) ~~of this Section~~ and chemical and physical properties that maintain the material integrity for the intended service life of the material;

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- C) The cover must be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between cover section seams or between the interface of the cover edge and its foundation mountings;
  - D) Except as provided for in subsection (c)(1)(E) of this Section, each opening in the floating membrane cover must be equipped with a closure device so designed as to operate 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;
  - E) The floating membrane cover may be equipped with one or more emergency cover drains for removal of stormwater. Each emergency cover drain must be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening or a flexible fabric sleeve seal; and
  - F) The 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 closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the floating membrane cover is installed.
- 2) Whenever a hazardous waste is in the surface impoundment, the floating membrane cover must float on the liquid and each closure device must be secured in the closed position, except as follows:
- A) Opening of closure devices or removal of the cover is allowed at the following times:
    - i) To provide access to the surface impoundment 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 surface impoundment, or

- 10933 when a worker needs to open a hatch to maintain or repair  
10934 equipment. Following completion of the activity, the  
10935 owner or operator must promptly replace the cover and  
10936 secure the closure device in the closed position, as  
10937 applicable; or  
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10939 ii) To remove accumulated sludge or other residues from the  
10940 bottom of surface impoundment; and  
10941  
10942 B) Opening of a safety device, as defined in Section 725.981, is  
10943 allowed at any time conditions require doing so to avoid an unsafe  
10944 condition.  
10945  
10946 3) The owner or operator must inspect the floating membrane cover in  
10947 accordance with the following procedures:  
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10949 A) The floating membrane cover and its closure devices must be  
10950 visually inspected by the owner or operator to check for defects  
10951 that could result in air pollutant emissions. Defects include, but  
10952 are not limited to, visible cracks, holes, or gaps in the cover section  
10953 seams or between the interface of the cover edge and its foundation  
10954 mountings; broken, cracked, or otherwise damaged seals or gaskets  
10955 on closure devices; and broken or missing hatches, access covers,  
10956 caps, or other closure devices;  
10957  
10958 B) The owner or operator must perform an initial inspection of the  
10959 floating membrane cover and its closure devices on or before the  
10960 date that the surface impoundment becomes subject to this Section.  
10961 Thereafter, the owner or operator must perform the inspections at  
10962 least once every year except for the special conditions provided for  
10963 in subsection (g) ~~of this Section~~;  
10964  
10965 C) In the event that a defect is detected, the owner or operator must  
10966 repair the defect in accordance with the requirements of subsection  
10967 (f) ~~of this Section~~; and  
10968  
10969 D) The owner or operator must maintain a record of the inspection in  
10970 accordance with the requirements specified in Section 725.990(c).  
10971  
10972 d) The owner or operator that controls air pollutant emissions from a surface  
10973 impoundment using a cover vented to a control device must meet the  
10974 requirements specified in subsections (d)(1) through (d)(3) ~~of this Section~~.  
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- 1) The surface impoundment must be covered by a cover and vented directly through a closed-vent system to a control device in accordance with the following requirements:
    - A) The cover and its closure devices must be designed to form a continuous barrier over the entire surface area of the liquid in the surface impoundment;
    - B) Each opening in the cover not vented to the control device must be equipped with a closure device. If the pressure in the vapor headspace underneath the cover is less than atmospheric pressure when the control device is operating, the closure devices must be designed to operate such 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 cover 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 using the procedure specified in Section 725.984(d);
    - C) The cover 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 cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover 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 surface impoundment, the cover must be installed with each closure device secured in the closed position and the vapor headspace underneath the cover vented to the control device, except as follows:
    - A) Venting to the control device is not required, and opening of

- 11019 closure devices or removal of the cover is allowed at the following  
11020 times:
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  - 11022 i) To provide access to the surface impoundment for  
11023 performing routine inspection, maintenance, or other  
11024 activities needed for normal operations. Examples of such  
11025 activities include those times when a worker needs to open  
11026 a port to sample liquid in the surface impoundment, or  
11027 when a worker needs to open a hatch to maintain or repair  
11028 equipment. Following completion of the activity, the  
11029 owner or operator must promptly secure the closure device  
11030 in the closed position or reinstall the cover, as applicable, to  
11031 the surface impoundment; or  
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  - 11033 ii) To remove accumulated sludge or other residues from the  
11034 bottom of the surface impoundment; and  
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- 11036 B) Opening of a safety device, as defined in Section 725.981, is  
11037 allowed at any time conditions require doing so to avoid an unsafe  
11038 condition.  
11039
- 11040 3) The owner or operator must inspect and monitor the air emission control  
11041 equipment in accordance with the following procedures:
- 11042
  - 11043 A) The surface impoundment cover and its closure devices must be  
11044 visually inspected by the owner or operator to check for defects  
11045 that could result in air pollutant emissions. Defects include, but  
11046 are not limited to, visible cracks, holes, or gaps in the cover section  
11047 seams or between the interface of the cover edge and its foundation  
11048 mountings; broken, cracked, or otherwise damaged seals or gaskets  
11049 on closure devices; and broken or missing hatches, access covers,  
11050 caps, or other closure devices;  
11051
  - 11052 B) The closed-vent system and control device must be inspected and  
11053 monitored by the owner or operator in accordance with the  
11054 procedures specified in Section 725.988;  
11055
  - 11056 C) The owner or operator must perform an initial inspection of the air  
11057 emission control equipment on or before the date that the surface  
11058 impoundment becomes subject to this Section. Thereafter, the  
11059 owner or operator must perform the inspections at least once every  
11060 year except for the special conditions provided for in subsection  
11061 (g) of this Section;

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- D) In the event that a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (f) 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(c).
- e) The owner or operator must transfer hazardous waste to a surface impoundment subject to this Section in accordance with the following requirements:
- 1) Transfer of hazardous waste, except as provided in subsection (e)(2) of this Section, to the surface impoundment from another surface impoundment subject to this Section or from a tank subject to Section 725.985 must be conducted using continuous hard-piping or another closed system that does not allow exposure of the 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 (e)(1) of this Section do not apply when transferring a hazardous waste to the surface impoundment 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); or
    - C) The hazardous waste meets the requirements of Section 725.983(c)(4).
- f) The owner or operator must repair each defect detected during an inspection performed in accordance with the requirements of subsection (c)(3) or (d)(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

11105 as soon as possible but no later than 45 calendar days after detection  
11106 except as provided in subsection (f)(2) ~~of this Section~~; and

- 11107
- 11108 2) Repair of a defect may be delayed beyond 45 calendar days if the owner or  
11109 operator determines that repair of the defect requires emptying or  
11110 temporary removal from service of the surface impoundment and no  
11111 alternative capacity is available at the site to accept the hazardous waste  
11112 normally managed in the surface impoundment. In this case, the owner or  
11113 operator must repair the defect the next time the process or unit that is  
11114 generating the hazardous waste managed in the tank stops operation.  
11115 Repair of the defect must be completed before the process or unit resumes  
11116 operation.

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- 11118 g) Following the initial inspection and monitoring of the cover, as required by the  
11119 applicable provisions of this Subpart CC, subsequent inspection and monitoring  
11120 may be performed at intervals longer than one year in the case when inspecting or  
11121 monitoring the cover would expose a worker to dangerous, hazardous, or other  
11122 unsafe conditions. In this case, the owner or operator may designate the cover as  
11123 an "unsafe to inspect and monitor cover" and comply with all of the following  
11124 requirements:

- 11125
- 11126 1) Prepare a written explanation for the cover stating the reasons why the  
11127 cover is unsafe to visually inspect or to monitor, if required; and
- 11128
- 11129 2) Develop and implement a written plan and schedule to inspect and  
11130 monitor the cover using the procedures specified in the applicable Section  
11131 of this Subpart CC as frequently as practicable during those times when a  
11132 worker can safely access the cover.

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11134 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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11136 **Section 725.988 Standards: Closed-Vent Systems and Control Devices**

- 11137
- 11138 a) This Section applies to each closed-vent system and control device installed and  
11139 operated by the owner or operator to control air emissions in accordance with  
11140 standards of this Subpart CC.
- 11141
- 11142 b) The closed-vent system must meet the following requirements:
- 11143
- 11144 1) The closed-vent system must route the gases, vapors, and fumes emitted  
11145 from the hazardous waste in the waste management unit to a control  
11146 device that meets the requirements specified in subsection (c) ~~of this~~  
11147 Section;

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- 2) The closed-vent system must be designed and operated in accordance with the requirements specified in Section 725.933(j);
- 3) When the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device must be equipped with either a flow indicator as specified in subsection (b)(3)(A) ~~of this Section~~ or a seal or locking device as specified in subsection (b)(3)(B) ~~of this Section~~. For the purpose of complying with this subsection, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring-loaded pressure relief valves, and other fittings used for safety purposes are not considered to be bypass devices.
  - A) If a flow indicator is used to comply with this subsection (b)(3), the indicator must be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For the purposes of this subsection, a flow indicator means a device that indicates the presence of either gas or vapor flow in the bypass line.
  - B) If a seal or locking device is used to comply with this subsection (b)(3), the device must be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle or damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock. Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The owner or operator must visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position; and
- 4) The closed-vent system must be inspected and monitored by the owner or operator in accordance with the procedure specified in Section 725.933(k).
- c) The control device must meet the following requirements:
  - 1) The control device must be one of the following devices:
    - A) A control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight;

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- B) An enclosed combustion device designed and operated in accordance with the requirements of Section 725.933(c); or
  - C) A flare designed and operated in accordance with the requirements of Section 725.933(d);
- 2) The owner or operator that elects to use a closed-vent system and control device to comply with the requirements of this Section must comply with the requirements specified in subsections (c)(2)(A) through (c)(2)(G) of this Section.
- A) Periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of subsection (c)(1)(A), (c)(1)(B), or (c)(1)(C) of this Section, as applicable, must not exceed 240 hours per year.
  - B) The specifications and requirements in subsections (c)(1)(A), (c)(1)(B), and (c)(1)(C) of this Section for control devices do not apply during periods of planned routine maintenance.
  - C) The specifications and requirements in subsections (c)(1)(A), (c)(1)(B), and (c)(1)(C) of this Section for control devices do not apply during a control device system malfunction.
  - D) The owner or operator must demonstrate compliance with the requirements of subsection (c)(2)(A) of this Section (i.e., planned routine maintenance of a control device, during which the control device does not meet the specifications of subsection (c)(1)(A), (c)(1)(B), or (c)(1)(C) of this Section, as applicable, must not exceed 240 hours per year) by recording the information specified in Section 725.990(e)(1)(E).
  - E) The owner or operator must correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants.
  - F) The owner or operator must operate the closed-vent system so that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally), except in cases when it is necessary to vent the gases, vapors, or fumes to avoid an unsafe

- 11234 condition or to implement malfunction corrective actions or  
11235 planned maintenance actions;  
11236  
11237 3) The owner or operator using a carbon adsorption system to comply with  
11238 subsection (c)(1) of this Section must operate and maintain the control  
11239 device in accordance with the following requirements:  
11240  
11241 A) Following the initial startup of the control device, all activated  
11242 carbon in the control device must be replaced with fresh carbon on  
11243 a regular basis in accordance with the requirements of Section  
11244 725.933(g) or 725.933(h).  
11245  
11246 B) All carbon that is a hazardous waste and that is removed from the  
11247 control device must be managed in accordance with the  
11248 requirements of Section 725.933(m), regardless of the average  
11249 volatile organic concentration of the carbon;  
11250  
11251 4) An owner or operator using a control device other than a thermal vapor  
11252 incinerator, flare, boiler, process heater, condenser, or carbon adsorption  
11253 system to comply with subsection (c)(1) of this Section must operate and  
11254 maintain the control device in accordance with the requirements of Section  
11255 725.933(i);  
11256  
11257 5) The owner or operator must demonstrate that a control device achieves the  
11258 performance requirements of subsection (c)(1) of this Section as follows:  
11259  
11260 A) An owner or operator must demonstrate using either a performance  
11261 test, as specified in subsection (c)(5)(C) of this Section, or a design  
11262 analysis, as specified in subsection (c)(5)(D) of this Section, the  
11263 performance of each control device except for the following:  
11264  
11265 i) A flare;  
11266  
11267 ii) A boiler or process heater with a design heat input capacity  
11268 of 44 megawatts or greater;  
11269  
11270 iii) A boiler or process heater into which the vent stream is  
11271 introduced with the primary fuel;  
11272  
11273 iv) A boiler or industrial furnace burning hazardous waste for  
11274 which the owner or operator has been issued a final permit  
11275 under 35 Ill. Adm. Code 702, 703, and 705 and has  
11276 designed and operates in accordance with the requirements

- 11277 of Subpart H of 35 Ill. Adm. Code 726; or  
11278  
11279 v) A boiler or industrial furnace burning hazardous waste for  
11280 which the owner or operator has designed and operates in  
11281 accordance with the interim status requirements of Subpart  
11282 H of 35 Ill. Adm. Code 726;  
11283  
11284 B) An owner or operator must demonstrate the performance of each  
11285 flare in accordance with the requirements specified in Section  
11286 725.933(e);  
11287  
11288 C) For a performance test conducted to meet the requirements of  
11289 subsection (c)(5)(A) ~~of this Section~~, the owner or operator must  
11290 use the test methods and procedures specified in Section  
11291 725.934(c)(1) through (c)(4);  
11292  
11293 D) For a design analysis conducted to meet the requirements of  
11294 subsection (c)(5)(A) ~~of this Section~~, the design analysis must meet  
11295 the requirements specified in Section 725.935(b)(4)(C); and  
11296  
11297 E) The owner or operator must demonstrate that a carbon adsorption  
11298 system achieves the performance requirements of subsection (c)(1)  
11299 ~~of this Section~~ based on the total quantity of organics vented to the  
11300 atmosphere from all carbon adsorption system equipment that is  
11301 used for organic adsorption, organic desorption or carbon  
11302 regeneration, organic recovery, and carbon disposal;  
11303  
11304 6) If the owner or operator and the Agency do not agree on a demonstration  
11305 of control device performance using a design analysis, then the  
11306 disagreement must be resolved using the results of a performance test  
11307 performed by the owner or operator in accordance with the requirements  
11308 of subsection (c)(5)(C) ~~of this Section~~. The Agency may choose to have  
11309 an authorized representative observe the performance test; and  
11310  
11311 7) The closed-vent system and control device must be inspected and  
11312 monitored by the owner or operator in accordance with the procedures  
11313 specified in Section 725.933(f)(2) and (k). The readings from each  
11314 monitoring device required by Section 725.933(f)(2) must be inspected at  
11315 least once each operating day to check control device operation. Any  
11316 necessary corrective measures must be immediately implemented to  
11317 ensure the control device is operated in compliance with the requirements  
11318 of this Section.  
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11320 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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11322 **Section 725.989 Inspection and Monitoring Requirements**  
11323

- 11324 a) The owner or operator must inspect and monitor air emission control equipment  
11325 used to comply with this Subpart CC in accordance with the requirements  
11326 specified in Sections 725.985 through 725.988.  
11327  
11328 b) The owner or operator must develop and implement a written plan and schedule  
11329 to perform the inspections and monitoring required by subsection (a) ~~of this~~  
11330 ~~Section~~. The owner or operator must incorporate this plan and schedule into the  
11331 facility inspection plan required under Section 725.115.  
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11333 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
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11335 **Section 725.990 Recordkeeping Requirements**  
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- 11337 a) Each owner or operator of a facility subject to the requirements in this Subpart CC  
11338 must record and maintain the information specified in subsections (b) through (j)  
11339 ~~of this Section~~, as applicable to the facility. Except for air emission control  
11340 equipment design documentation and information required by subsections (i) and  
11341 (j) ~~of this Section~~, records required by this Section must be maintained in the  
11342 operating record for a minimum of three years. Air emission control equipment  
11343 design documentation must be maintained in the operating record until the air  
11344 emission control equipment is replaced or is otherwise no longer in service.  
11345 Information required by subsections (i) and (j) ~~of this Section~~ must be maintained  
11346 in the operating record for as long as the waste management unit is not using air  
11347 emission controls specified in Sections 725.985 through 725.988, in accordance  
11348 with the conditions specified in Section 725.980(d) or (b)(7), respectively.  
11349  
11350 b) The owner or operator of a tank using air emission controls in accordance with the  
11351 requirements of Section 725.985 must prepare and maintain records for the tank  
11352 that include the following information:  
11353  
11354 1) For each tank using air emission controls in accordance with the  
11355 requirements of Section 725.985 of this Subpart CC, the owner or operator  
11356 must record the following information:  
11357  
11358 A) A tank identification number (or other unique identification  
11359 description as selected by the owner or operator); and  
11360  
11361 B) A record for each inspection required by Section 725.985 that  
11362 includes the following information:

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- 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

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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,

- 11449 the date of detection, and corrective action taken to repair the  
 11450 defect. In the event that repair of the defect is delayed in  
 11451 accordance with the provisions of Section 725.986(f), the owner or  
 11452 operator must also record the reason for the delay and the date that  
 11453 completion of repair of the defect is expected; and  
 11454
- 11455 4) For a surface impoundment equipped with a cover and vented through a  
 11456 closed-vent system to a control device, the owner or operator must prepare  
 11457 and maintain the records specified in subsection (e) ~~of this Section~~.  
 11458
- 11459 d) The owner or operator of containers using Container Level 3 air emission controls  
 11460 in accordance with the requirements of Section 725.987 must prepare and  
 11461 maintain records that include the following information:  
 11462
- 11463 1) Records for the most recent set of calculations and measurements  
 11464 performed by the owner or operator to verify that the enclosure meets the  
 11465 criteria of a permanent total enclosure as specified in "Procedure T –  
 11466 Criteria for and Verification of a Permanent or Temporary Total  
 11467 Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement  
 11468 Techniques for Capture Efficiency), incorporated by reference in 35 Ill.  
 11469 Adm. Code 720.111(b); and  
 11470
- 11471 2) Records required for the closed-vent system and control device in  
 11472 accordance with the requirements of subsection (e) ~~of this Section~~.  
 11473
- 11474 e) The owner or operator using a closed-vent system and control device in  
 11475 accordance with the requirements of Section 725.988 must prepare and maintain  
 11476 records that include the following information:  
 11477
- 11478 1) Documentation for the closed-vent system and control device that includes  
 11479 the following:  
 11480
- 11481 A) Certification that is signed and dated by the owner or operator  
 11482 stating that the control device is designed to operate at the  
 11483 performance level documented by a design analysis as specified in  
 11484 subsection (e)(1)(B) ~~of this Section~~ or by performance tests as  
 11485 specified in subsection (e)(1)(C) ~~of this Section~~ when the tank,  
 11486 surface impoundment, or container is or would be operating at  
 11487 capacity or the highest level reasonably expected to occur;  
 11488
- 11489 B) If a design analysis is used, then design documentation, as  
 11490 specified in Section 725.935(b)(4). The documentation must  
 11491 include information prepared by the owner or operator or provided

- 11492 by the control device manufacturer or vendor that describes the  
11493 control device design in accordance with Section 725.935(b)(4)(C)  
11494 and certification by the owner or operator that the control  
11495 equipment meets the applicable specifications;  
11496
- 11497 C) If performance tests are used, then a performance test plan as  
11498 specified in Section 725.935(b)(3) and all test results;  
11499
- 11500 D) Information as required by Section 725.935(c)(1) and (c)(2), as  
11501 applicable;  
11502
- 11503 E) An owner or operator must record, on a semiannual basis, the  
11504 following information for those planned routine maintenance  
11505 operations that would require the control device not to meet the  
11506 requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C),  
11507 as applicable:  
11508
- 11509 i) A description of the planned routine maintenance that is  
11510 anticipated to be performed for the control device during  
11511 the next six-month period. This description must include  
11512 the type of maintenance necessary, planned frequency of  
11513 maintenance, and lengths of maintenance periods; and  
11514
- 11515 ii) A description of the planned routine maintenance that was  
11516 performed for the control device during the previous six-  
11517 month period. This description must include the type of  
11518 maintenance performed and the total number of hours  
11519 during those six months that the control device did not meet  
11520 the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or  
11521 (c)(1)(C), as applicable, due to planned routine  
11522 maintenance;  
11523
- 11524 F) An owner or operator must record the following information for  
11525 those unexpected control device system malfunctions that would  
11526 require the control device not to meet the requirements of Section  
11527 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:  
11528
- 11529 i) The occurrence and duration of each malfunction of the  
11530 control device system;  
11531
- 11532 ii) The duration of each period during a malfunction when  
11533 gases, vapors, or fumes are vented from the waste  
11534 management unit through the closed-vent system to the

- 11535 control device while the control device is not properly  
 11536 functioning; and  
 11537  
 11538 iii) Actions taken during periods of malfunction to restore a  
 11539 malfunctioning control device to its normal or usual  
 11540 manner of operation; and  
 11541  
 11542 G) Records of the management of carbon removed from a carbon  
 11543 adsorption system conducted in accordance with Section  
 11544 725.988(c)(3)(B).  
 11545  
 11546 f) The owner or operator of a tank, surface impoundment, or container exempted  
 11547 from standards in accordance with the provisions of Section 725.983(c) must  
 11548 prepare and maintain the following records, as applicable:  
 11549  
 11550 1) For tanks, surface impoundments, or containers exempted under the  
 11551 hazardous waste organic concentration conditions specified in Section  
 11552 725.983(c)(1) or 725.983(c)(2)(A) through (c)(2)(F), the owner or  
 11553 operator must record the information used for each waste determination  
 11554 (e.g., test results, measurements, calculations, and other documentation) in  
 11555 the facility operating log. If analysis results for waste samples are used for  
 11556 the waste determination, then the owner or operator must record the date,  
 11557 time, and location that each waste sample is collected in accordance with  
 11558 the applicable requirements of Section 725.984; and  
 11559  
 11560 2) For tanks, surface impoundments, or containers exempted under the  
 11561 provisions of Section 725.983(c)(2)(G) or (c)(2)(H), the owner or operator  
 11562 must record the identification number for the incinerator, boiler, or  
 11563 industrial furnace in which the hazardous waste is treated.  
 11564  
 11565 g) An owner or operator designating a cover as "unsafe to inspect and monitor"  
 11566 pursuant to Section 725.985(l) or 725.986(g) must record in a log that is kept in  
 11567 the facility operating record the following information: the identification numbers  
 11568 for waste management units with covers that are designated as "unsafe to inspect  
 11569 and monitor," the explanation for each cover stating why the cover is unsafe to  
 11570 inspect and monitor, and the plan and schedule for inspecting and monitoring  
 11571 each cover.  
 11572  
 11573 h) The owner or operator of a facility that is subject to this Subpart CC and to the  
 11574 control device standards in federal subpart VV of 40 CFR 60 (Standards of  
 11575 Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals  
 11576 Manufacturing Industry), or subpart V of 40 CFR 61 (National Emission Standard  
 11577 for Equipment Leaks (Fugitive Emission Sources), each incorporated by reference

11578 in 35 Ill. Adm. Code 270.111, may elect to demonstrate compliance with the  
 11579 applicable Sections of this Subpart by documentation either pursuant to this  
 11580 Subpart CC, or pursuant to the provisions of subpart VV of 40 CFR 60 or subpart  
 11581 V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or  
 11582 61 duplicates the documentation required by this Section.  
 11583

- 11584 i) For each tank or container not using air emission controls specified in Sections  
 11585 725.985 through 725.988 in accordance with the conditions specified in Section  
 11586 725.980(d), the owner or operator must record and maintain the following  
 11587 information:
    - 11588
    - 11589 1) A list of the individual organic peroxide compounds manufactured at the  
 11590 facility that meet the conditions specified in Section 725.980(d)(1);  
 11591
    - 11592 2) A description of how the hazardous waste containing the organic peroxide  
 11593 compounds identified pursuant to subsection (i)(1) are managed at the  
 11594 facility in tanks and containers. This description must include the  
 11595 following information:
      - 11596
      - 11597 A) For the tanks used at the facility to manage this hazardous waste,  
 11598 sufficient information must be provided to describe each tank: a  
 11599 facility identification number for the tank, the purpose and  
 11600 placement of this tank in the management train of this hazardous  
 11601 waste, and the procedures used to ultimately dispose of the  
 11602 hazardous waste managed in the tanks; and  
 11603
      - 11604 B) For containers used at the facility to manage this hazardous waste,  
 11605 sufficient information must be provided to describe the following  
 11606 for each container: a facility identification number for the  
 11607 container or group of containers; the purpose and placement of this  
 11608 container or group of containers in the management train of this  
 11609 hazardous waste; and the procedures used to ultimately dispose of  
 11610 the hazardous waste handled in the containers; and  
 11611
- 11612 3) An explanation of why managing the hazardous waste containing the  
 11613 organic peroxide compounds identified pursuant to subsection (i)(1) ~~of~~  
 11614 ~~this Section~~ in the tanks or containers identified pursuant to subsection  
 11615 (i)(2) ~~of this Section~~ would create an undue safety hazard if the air  
 11616 emission controls specified in Sections 725.985 through 725.988 were  
 11617 installed and operated on these waste management units. This explanation  
 11618 must include the following information:
    - 11619
    - 11620 A) For tanks used at the facility to manage this hazardous waste,

11621 sufficient information must be provided to explain: how use of the  
11622 required air emission controls on the tanks would affect the tank  
11623 design features and facility operating procedures currently used to  
11624 prevent an undue safety hazard during the management of this  
11625 hazardous waste in the tanks; and why installation of safety  
11626 devices on the required air emission controls, as allowed under this  
11627 Subpart CC, would not address those situations in which  
11628 evacuation of tanks equipped with these air emission controls is  
11629 necessary and consistent with good engineering and safety  
11630 practices for handling organic peroxides; and

11631  
11632 B) For containers used at the facility to manage this hazardous waste,  
11633 sufficient information must be provided to explain: how use of the  
11634 required air emission controls on the containers would affect the  
11635 container design features and handling procedures currently used  
11636 to prevent an undue safety hazard during management of this  
11637 hazardous waste in the containers; and why installation of safety  
11638 devices on the required air emission controls, as allowed under this  
11639 Subpart CC, would not address those situations in which  
11640 evacuation of containers equipped with these air emission controls  
11641 is necessary and consistent with good engineering and safety  
11642 practices for handling organic peroxides.  
11643

- 11644 j) For each hazardous waste management unit not using air emission controls  
11645 specified in Sections 725.985 through 725.988 in accordance with the provisions  
11646 of Section 725.980(b)(7), the owner and operator must record and maintain the  
11647 following information:  
11648
- 11649 1) The certification that the waste management unit is equipped with and  
11650 operating air emission controls in accordance with the requirements of an  
11651 applicable federal Clean Air Act regulation codified under 40 CFR 60, 61,  
11652 or 63; and  
11653
  - 11654 2) An identification of the specific federal requirements codified under 40  
11655 CFR 60, 61, or 63 with which the waste management unit is in  
11656 compliance.  
11657

11658 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
11659

11660 SUBPART DD: CONTAINMENT BUILDINGS  
11661

11662 **Section 725.1101 Design and Operating Standards**  
11663

- 11664 a) All containment buildings must comply with the following design and operating  
 11665 standards:  
 11666  
 11667 1) The containment building must be completely enclosed with a floor, walls,  
 11668 and a roof to prevent exposure to the elements (e.g., precipitation, wind,  
 11669 run on) and to assure containment of managed wastes;  
 11670  
 11671 2) The floor and containment walls of the unit, including the secondary  
 11672 containment system if required under subsection (b), must be designed and  
 11673 constructed of materials of sufficient strength and thickness to support  
 11674 themselves, the waste contents, and any personnel and heavy equipment  
 11675 that operate within the unit, and to prevent failure due to pressure  
 11676 gradients, settlement, compression, or uplift, physical contact with the  
 11677 hazardous wastes to which they are exposed; climatic conditions; and the  
 11678 stresses of daily operation, including the movement of heavy equipment  
 11679 within the unit and contact of such equipment with containment walls.  
 11680 The unit must be designed so that it has sufficient structural strength to  
 11681 prevent collapse or other failure. All surfaces to be in contact with  
 11682 hazardous wastes must be chemically compatible with those wastes. The  
 11683 containment building must meet the structural integrity requirements  
 11684 established by professional organizations generally recognized by the  
 11685 industry such as the American Concrete Institute (ACI) and the American  
 11686 Society of Testing Materials (ASTM). If appropriate to the nature of the  
 11687 waste management operation to take place in the unit, an exception to the  
 11688 structural strength requirement may be made for light-weight doors and  
 11689 windows that meet the followingthese criteria:  
 11690  
 11691 A) They provide an effective barrier against fugitive dust emissions  
 11692 under subsection (c)(1)(D); and  
 11693  
 11694 B) The unit is designed and operated in a fashion that assures that  
 11695 wastes will not actually come in contact with these openings;  
 11696  
 11697 3) Incompatible hazardous wastes or treatment reagents must not be placed in  
 11698 the unit or its secondary containment system if they could cause the unit or  
 11699 secondary containment system to leak, corrode, or otherwise fail; and  
 11700  
 11701 4) A containment building must have a primary barrier designed to withstand  
 11702 the movement of personnel, waste, and handling equipment in the unit  
 11703 during the operating life of the unit and appropriate for the physical and  
 11704 chemical characteristics of the waste to be managed.  
 11705  
 11706 b) For a containment building used to manage hazardous wastes containing free

11707 liquids or treated with free liquids (the presence of which is determined by the  
11708 paint filter test, a visual examination, or other appropriate means), the owner or  
11709 operator must include the following design features:  
11710

- 11711 1) A primary barrier designed and constructed of materials to prevent the  
11712 migration of hazardous constituents into the barrier (e.g., a geomembrane  
11713 covered by a concrete wear surface).  
11714
- 11715 2) A liquid collection and removal system to minimize the accumulation of  
11716 liquid on the primary barrier of the containment building:  
11717
  - 11718 A) The primary barrier must be sloped to drain liquids to the  
11719 associated collection system; and  
11720
  - 11721 B) Liquids and waste must be collected and removed to minimize  
11722 hydraulic head on the containment system at the earliest  
11723 practicable time.  
11724
- 11725 3) A secondary containment system including a secondary barrier designed  
11726 and constructed to prevent migration of hazardous constituents into the  
11727 barrier, and a leak detection system that is capable of detecting failure of  
11728 the primary barrier and collecting accumulated hazardous wastes and  
11729 liquids at the earliest practicable time.  
11730
  - 11731 A) The requirements of the leak detection component of the secondary  
11732 containment system are satisfied by installation of a system that is,  
11733 at a minimum, as follows:  
11734
    - 11735 i) It is constructed with a bottom slope of 1 percent or more;  
11736 and  
11737
    - 11738 ii) It is constructed of a granular drainage material with a  
11739 hydraulic conductivity of  $1 \times 10^{-2}$  cm/sec or more and a  
11740 thickness of 12 inches (30.5 cm) or more, or constructed of  
11741 synthetic or geonet drainage materials with a transmissivity  
11742 of  $3 \times 10^{-5}$  m<sup>2</sup>/sec or more.  
11743
  - 11744 B) If treatment is to be conducted in the building, an area in which  
11745 such treatment will be conducted must be designed to prevent the  
11746 release of liquids, wet materials, or liquid aerosols to other portions  
11747 of the building.  
11748
  - 11749 C) The secondary containment system must be constructed of

- 11750 materials that are chemically resistant to the waste and liquids  
 11751 managed in the containment building and of sufficient strength and  
 11752 thickness to prevent collapse under the pressure exerted by  
 11753 overlaying materials and by any equipment used in the  
 11754 containment building. (Containment buildings can serve as  
 11755 secondary containment systems for tanks placed within the  
 11756 building under certain conditions. A containment building can  
 11757 serve as an external liner system for a tank, provided it meets the  
 11758 requirements of Section 725.293(e)(1). In addition, the  
 11759 containment building must meet the requirements of  
 11760 Sectionssubsections 725.293(b) and (c) to be an acceptable  
 11761 Secondary containment system for a tank.)  
 11762
- 4) ~~For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must do each of the following:~~
- A) ~~Provide written notice to USEPA of their request by November 16, 1992. This notification must describe the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;~~
- B) ~~Respond to any comments from USEPA on these plans within 30 days; and~~
- C) ~~Fulfill the terms of the revised plans, if such plans are approved by USEPA.~~
- c) Owners or operators of all containment buildings must do each of the following:
- 1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum do each of the following:
- A) It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;
- B) It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

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- C) It must take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and
  
- D) It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Reference Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit;

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv), USEPA cites "40 CFR part 60, subpart 292-". At 57 Fed. Reg. 37217 (August 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. While 40 CFR 60.292 of the federal regulations pertains to control of fugitive dust emissions, that provision is limited in its application to glass melting furnaces. The Board has chosen to use the general citation: "40 CFR 60-".

- 2) It must obtain and keep ~~on site~~on-site a certification by a qualified Professional Engineer that the containment building design meets the requirements of subsections (a) through (c);
  
- 3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures:
  - A) Upon detection of a condition that has caused ~~to~~a release of hazardous wastes (e.g., upon detection of leakage from the primary barrier) the owner or operator must do the following:
    - i) Enter a record of the discovery in the facility operating

- 11836 record;
- 11837
- 11838 ii) Immediately remove the portion of the containment
- 11839 building affected by the condition from service;
- 11840
- 11841 iii) Determine what steps must be taken to repair the
- 11842 containment building, remove any leakage from the
- 11843 secondary collection system, and establish a schedule for
- 11844 accomplishing the cleanup and repairs; and
- 11845
- 11846 iv) Within seven days after the discovery of the condition,
- 11847 notify the Agency in writing of the condition, and within 14
- 11848 working days, provide a written notice to the Agency with
- 11849 a description of the steps taken to repair the containment
- 11850 building, and the schedule for accomplishing the work;
- 11851
- 11852 B) The Agency must review the information submitted, make a
- 11853 determination regarding whether the containment building must be
- 11854 removed from service completely or partially until repairs and
- 11855 cleanup are complete, and notify the owner or operator of the
- 11856 determination and the underlying rationale in writing; and
- 11857
- 11858 C) Upon completing all repairs and cleanup the owner and operator
- 11859 must notify the Agency in writing and provide a verification,
- 11860 signed by a qualified, registered professional engineer, that the
- 11861 repairs and cleanup have been completed according to the written
- 11862 plan submitted in accordance with subsection (c)(3)(A)(iv); and
- 11863
- 11864 4) At least once every seven days, it~~It~~ must inspect and record in the facility's
- 11865 operating record data gathered from monitoring and leak detection
- 11866 equipment, the containment building, and the area immediately
- 11867 surrounding the containment building to detect signs of releases of
- 11868 hazardous waste ~~at least once every seven days.~~
- 11869
- 11870 d) For a containment building that contains areas both with and without secondary
- 11871 containment, the owner or operator must do the following:
- 11872
- 11873 1) Design and operate each area in accordance with the requirements
- 11874 enumerated in subsections (a) through (c);
- 11875
- 11876 2) Take measures to prevent the release of liquids or wet materials into areas
- 11877 without secondary containment; and
- 11878

- 11879                    3)     Maintain in the facility's operating log a written description of the  
11880                                operating procedures used to maintain the integrity of areas without  
11881                                secondary containment.  
11882  
11883                    e)     Notwithstanding any other provision of this Subpart DD, the Agency must, in  
11884                                writing, allow the use of alternatives to the requirements for secondary  
11885                                containment for a permitted containment building where the Agency has  
11886                                determined that the facility owner or operator has adequately demonstrated that  
11887                                the only free liquids in the unit are limited amounts of dust suppression liquids  
11888                                required to meet occupational health and safety requirements, and where  
11889                                containment of managed wastes and liquids can be assured without a secondary  
11890                                containment system.

11891  
11892                    (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
11893

11894     **Section 725.1102 Closure and Post-Closure Care**  
11895

- 11896                    a)     At closure of a containment building, the owner or operator must remove or  
11897                                decontaminate all waste residues, contaminated containment system components  
11898                                (liners, etc.), contaminated subsoils, and structures and equipment contaminated  
11899                                with waste and leachate, and manage them as hazardous waste unless 35 Ill. Adm.  
11900                                Code 721.103(e) applies. The closure plan, closure activities, cost estimates for  
11901                                closure, and financial responsibility for containment buildings must meet all of  
11902                                the requirements specified in Subparts G and H ~~of this Part~~.  
11903  
11904                    b)     If, after removing or decontaminating all residues and making all reasonable  
11905                                efforts to effect removal or decontamination of contaminated components,  
11906                                subsoils, structures, and equipment as required in subsection (a) ~~of this Section~~,  
11907                                the owner or operator finds that not all contaminated subsoils can be practicably  
11908                                removed or decontaminated, he must close the facility and perform post-closure  
11909                                care in accordance with the closure and post-closure requirements that apply to  
11910                                landfills (35 Ill. Adm. Code 725.310). In addition, for the purposes of closure,  
11911                                post-closure, and financial responsibility, such a containment building is then  
11912                                considered to be a landfill, and the owner or operator must meet all the  
11913                                requirements for landfills specified in Subparts G and H ~~of this Part~~.

11914  
11915                    (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
11916

11917                    **SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES**  
11918                                **STORAGE**  
11919

11920     **Section 725.1200 Applicability**  
11921

11922 The requirements of this Subpart EE apply to owners or operators that store munitions and  
11923 explosive hazardous wastes, except as Section 725.101 provides otherwise.

11924  
11925 BOARD NOTE: Depending on explosive hazards, hazardous waste munitions and explosives  
11926 may also be managed in other types of storage units, including containment buildings (Subpart  
11927 ~~DD of this Part~~), tanks (Subpart ~~J of this Part~~), or containers (Subpart ~~I of this Part~~); see 35 Ill.  
11928 Adm. Code 726.305 for storage of waste military munitions.

11929  
11930 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

11931  
11932 **Section 725.1201 Design and Operating Standards**

11933  
11934 a) An owner or operator of a hazardous waste munitions and explosives storage unit  
11935 must design and operate the unit with containment systems, controls, and  
11936 monitoring that fulfill each of the following requirements:

- 11937  
11938 1) The owner or operator minimizes the potential for detonation or other  
11939 means of release of hazardous waste, hazardous constituents, hazardous  
11940 decomposition products, or contaminated run-off to the soil, groundwater,  
11941 surface water, and atmosphere;
- 11942  
11943 2) The owner or operator provides a primary barrier, which may be a  
11944 container (including a shell) or tank, designed to contain the hazardous  
11945 waste;
- 11946  
11947 3) For wastes stored outdoors, the owner or operator provides that the waste  
11948 and containers will not be in standing precipitation;
- 11949  
11950 4) For liquid wastes, the owner or operator provides a secondary containment  
11951 system that assures that any released liquids are contained and promptly  
11952 detected and removed from the waste area or a vapor detection system that  
11953 assures that any released liquids or vapors are promptly detected and an  
11954 appropriate response taken (e.g., additional containment, such as  
11955 overpacking or removal from the waste area); and
- 11956  
11957 5) The owner or operator provides monitoring and inspection procedures that  
11958 assure the controls and containment systems are working as designed and  
11959 that releases that may adversely impact human health or the environment  
11960 are not escaping from the unit.

11961  
11962 b) Hazardous waste munitions and explosives stored under this Subpart EE may be  
11963 stored in one of the following:

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- 1) Earth-covered magazines. The owner or operator of an earth-covered magazine must fulfill each of the following requirements:
    - A) The magazine is constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;
    - B) The magazine is so designed and constructed that it fulfills each of the following requirements:
      - i) The magazine is of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;
      - ii) The magazine provides working space for personnel and equipment in the unit; and
      - iii) The magazine can withstand movement activities that occur in the unit; and
    - C) The magazine is located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.
  - 2) Above-ground magazines. Above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.
  - 3) Outdoor or open storage areas. Outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.
- c) An owner or operator must store hazardous waste munitions and explosives in accordance with a Standard Operating Procedure that specifies procedures which ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of Section 725.114, the preparedness and prevention procedures of Subpart C of this Part, and the contingency plan and emergency procedures requirements of Subpart D of this Part, then the Standard Operating Procedure may be used to fulfill those requirements.
- d) An owner or operator must package hazardous waste munitions and explosives to

12008 ensure safety in handling and storage.

- 12009
- 12010 e) An owner or operator must inventory hazardous waste munitions and explosives
- 12011 at least annually.
- 12012
- 12013 f) An owner or operator must inspect and monitor hazardous waste munitions and
- 12014 explosives and their storage units as necessary to ensure explosives safety and to
- 12015 ensure that there is no migration of contaminants out of the unit.
- 12016

12017 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

12018

12019 **Section 725.1202 Closure and Post-Closure Care**

12020

- 12021 a) At closure of a magazine or unit that stored hazardous waste under this Subpart
- 12022 EE, the owner or operator must remove or decontaminate all waste residues,
- 12023 contaminated containment system components, contaminated subsoils, and
- 12024 structures and equipment contaminated with waste and manage them as hazardous
- 12025 waste, unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure
- 12026 activities, cost estimates for closure, and financial responsibility for magazines or
- 12027 units must meet all of the requirements specified in Subparts G and H of this Part,
- 12028 except that the owner or operator may defer closure of the unit as long as it
- 12029 remains in service as a munitions or explosives magazine or storage unit.
- 12030
- 12031 b) If, after removing or decontaminating all residues and making all reasonable
- 12032 efforts to effect removal or decontamination of contaminated components,
- 12033 subsoils, structures, and equipment as required in subsection (a) of this Section,
- 12034 the owner or operator finds that not all contaminated subsoils can be practicably
- 12035 removed or decontaminated, the owner or operator must close the facility and
- 12036 perform post-closure care in accordance with the closure and post-closure
- 12037 requirements that apply to landfills (see 35 Ill. Adm. Code 724.410).
- 12038

12039 (Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

12040

12041 **Section 725.APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at**  
 12042 **25° C)**

12043  
 12044

Compound name	CAS No.
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminofluorene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetylpiperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzeneearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo(a)anthracene	56-55-3
Benzo(k)fluoranthene	207-08-9
Benzoic acid	65-85-0
Benzo(g,h,i)perylene	191-24-2
Benzo(a)pyrene	50-32-8
Benzyl alcohol	100-51-6
γ-BHC	58-89-9
Bis(2-ethylhexyl)phthalate	117-81-7
Bromo-chloromethyl acetate	
Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile)	1689-84-5
Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol(o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6

Cell wall	
Chlorhydrin (3-Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloroacetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzilate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine	
<u>2-Chloroethane-1,1-diol</u> <del>Chloro-1,2-ethane diol</del>	<u>15873-56-0</u>
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol & 4-chlorophenol)	95-57-8 & 106-48-9
1-(o-Chlorophenyl)thiourea	5344-82-1
<u>N-Chlorosuccinimide (1-chloropyrrolidine-2,5-dione)</u>	<u>128-09-6</u>
Chrysene	218-01-9
Citric acid	77-92-9
Creosote	8001-58-9
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresol (mixed isomers)	1319-77-3
4-Cumylphenol	27576-86
Cyanide	57-12-5
<del>4-Cyanomethyl benzoate</del>	
Diazinon	333-41-5
Dibenzo(a,h)anthracene	53-70-3
Dibutylphthalate	84-74-2
2,5-Dichloroaniline (N,N'-dichloroaniline)	95-82-9
2,6-Dichlorobenzonitrile	1194-65-6
2,6-Dichloro-4-nitroaniline	99-30-9
2,5-Dichlorophenol	333-41-5
3,4-Dichlorotetrahydrofuran	3511-19
Dichlorvos (DDVP)	62-73-7
Diethanolamine	111-42-2
N,N-Diethylaniline	91-66-7
Diethylene glycol	111-46-6
Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
N,N'-Diethylhydrazine	1615-80-1
Diethyl(4-methylumbelliferyl)thionophosphate	299-45-6

Diethylphosphorothioate	126-75-0
N,N'-Diethylpropionamide	15299-99-7
Dimethoate	60-51-5
2,3-Dimethoxystrychnidin-10-one	357-57-3
4-Dimethylaminoazobenzene	60-11-7
7,12-Dimethylbenz(a)anthracene	57-97-6
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamoyl chloride	79-44-7
Dimethyldisulfide	624-92-0
Dimethylformamide	68-12-2
1,1-Dimethylhydrazine	57-14-7
Dimethylphthalate	131-11-3
Dimethylsulfone	67-71-0
Dimethylsulfoxide	67-68-5
4,6-Dinitro-o-cresol	534-52-1
1,2-Diphenylhydrazine	122-66-7
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Endrin	72-20-8
Epinephrine	51-43-4
mono-Ethanolamine	141-43-5
Ethyl carbamate (urethane)	51-79-6
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
Ethylene glycol monoethyl ether (Cellosolve)	110-80-5
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	96-45-7
4-Ethylmorpholine	100-74-3
3-Ethylphenol	620-17-7
Fluoroacetic acid, sodium salt	62-74-8
Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8
Glutaric acid	110-94-1
Glycerin (Glycerol)	56-81-5
Glycidol	556-52-5
Glycinamide	598-41-4
Glyphosate	1071-83-6
Guthion	86-50-0
Hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane)	822-06-0

Hexamethyl phosphoramidate	680-31-9
Hexanoic acid	142-62-1
Hydrazine	302-01-2
Hydrocyanic acid	74-90-8
Hydroquinone	123-31-9
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
Indeno(1,2,3-cd)pyrene	193-39-5
Lead acetate	301-04-2
Lead subacetate (lead acetate, monobasic)	1335-32-6
Leucine	61-90-5
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methane sulfonic acid	75-75-2
Methomyl	16752-77-5
p-Methoxyphenol	150-76-5
Methylacrylate	96-33-3
<u>2-(Methylamino)acetic acid (sarcosine, N-methylglycine)</u>	<u>107-97-1</u>
<u>Methyl bromochloroacetate</u>	<u>20428-74-4</u>
<u>Methyl-4-(cyanomethyl)benzoate</u>	<u>76469-88-0</u>
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4,4'-Methylenedianiline	101-77-9
Methylene diphenylamine (MDA)	
5-Methylfurfural	620-02-0
Methylhydrazine	60-34-4
Methyliminoacetic acid	
Methyl methane sulfonate	66-27-3
†-Methyl-2-methoxyaziridine	
Methylparathion	298-00-0
Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
4-Methylthiophenol	106-45-6
Monomethylformamide (N-methylformamide)	123-39-7
Nabam	142-59-6
α-Naphthol	90-15-3
β-Naphthol	135-19-3
α-Naphthylamine	134-32-7
β-Naphthylamine	91-59-8
Neopentyl glycol	126-30-7
Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0

2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrosoguanidine	674-81-7
N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenylene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
$\alpha$ -Picoline (2-methyl pyridine)	109-06-8
1,3-Propane sulfone	1120-71-4
$\beta$ -Propiolactone	57-57-8
<u>Propoxur</u> <del>Propoxur</del> (Baygon) <u>2-(1-methylethoxy)phenol N-</u> <u>methylcarbamate</u>	<u>114-26-1</u>
Propylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4
Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1
Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5

3,4-Toluediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol dimethyl ether (2,5,8,11-tetraoxadodecane, 1-methoxy-2-(2-(2-methoxyethoxy)ethoxy)ethane)	112-49-2
Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

12045

12046

(Source: Amended at 42 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 FACILITIES

SUBPART A: GENERAL PROVISIONS

Section

- 725.101 Purpose, Scope, and Applicability
- 725.102 Electronic Reporting
- 725.104 Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

Section

- 725.110 Applicability
- 725.111 USEPA Identification Number
- 725.112 Required Notices
- 725.113 General Waste Analysis
- 725.114 Security
- 725.115 General Inspection Requirements
- 725.116 Personnel Training
- 725.117 General Requirements for Ignitable, Reactive, or Incompatible  
Wastes
- 725.118 Location Standards
- 725.119 Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section

- 725.130 Applicability
- 725.131 Maintenance and Operation of Facility
- 725.132 Required Equipment
- 725.133 Testing and Maintenance of Equipment
- 725.134 Access to Communications or Alarm System
- 725.135 Required Aisle Space
- 725.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

- 725.150 Applicability
- 725.151 Purpose and Implementation of Contingency Plan
- 725.152 Content of Contingency Plan
- 725.153 Copies of Contingency Plan
- 725.154 Amendment of Contingency Plan
- 725.155 Emergency Coordinator
- 725.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section

- 725.170 Applicability
- 725.171 Use of Manifest System
- 725.172 Manifest Discrepancies
- 725.173 Operating Record
- 725.174 Availability, Retention, and Disposition of Records
- 725.175 Annual Report
- 725.176 Unmanifested Waste Report
- 725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

Section

- 725.190 Applicability
- 725.191 Groundwater Monitoring System
- 725.192 Sampling and Analysis
- 725.193 Preparation, Evaluation, and Response
- 725.194 Recordkeeping and Reporting

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

- 725.210 Applicability
- 725.211 Closure Performance Standard
- 725.212 Closure Plan; Amendment of Plan
- 725.213 Closure; Time Allowed for Closure
- 725.214 Disposal or Decontamination of Equipment, Structures, and Soils
- 725.215 Certification of Closure
- 725.216 Survey Plat
- 725.217 Post-Closure Care and Use of Property
- 725.218 Post-Closure Care Plan; Amendment of Plan
- 725.219 Post-Closure Notices
- 725.220 Certification of Completion of Post-Closure Care
- 725.221 Alternative Post-Closure Care Requirements

SUBPART H: FINANCIAL REQUIREMENTS

Section

- 725.240 Applicability
- 725.241 Definitions of Terms as Used in this Subpart H
- 725.242 Cost Estimate for Closure
- 725.243 Financial Assurance for Closure
- 725.244 Cost Estimate for Post-Closure Care
- 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance
- 725.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
- 725.247 Liability Requirements

725.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions

725.251 Promulgation of Forms (Repealed)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

725.270 Applicability

725.271 Condition of Containers

725.272 Compatibility of Waste with Containers

725.273 Management of Containers

725.274 Inspections

725.276 Special Requirements for Ignitable or Reactive Wastes

725.277 Special Requirements for Incompatible Wastes

725.278 Air Emission Standards

SUBPART J: TANK SYSTEMS

Section

725.290 Applicability

725.291 Assessment of Existing Tank System Integrity

725.292 Design and Installation of New Tank Systems or Components

725.293 Containment and Detection of Releases

725.294 General Operating Requirements

725.295 Inspections

725.296 Response to Leaks or Spills and Disposition of Tank Systems

725.297 Closure and Post-Closure Care

725.298 Special Requirements for Ignitable or Reactive Wastes

725.299 Special Requirements for Incompatible Wastes

725.300 Waste Analysis and Trial Tests

725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month (Repealed)

725.302 Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section

725.320 Applicability

725.321 Design and Operating Requirements

725.322 Action Leakage Rate

725.323 Containment System

725.324 Response Actions

725.325 Waste Analysis and Trial Tests

725.326 Monitoring and Inspections

725.328 Closure and Post-Closure Care

725.329 Special Requirements for Ignitable or Reactive Wastes

725.330 Special Requirements for Incompatible Wastes

725.331 Air Emission Standards

SUBPART L: WASTE PILES

Section

725.350 Applicability  
725.351 Protection from Wind  
725.352 Waste Analysis  
725.353 Containment  
725.354 Design and Operating Requirements  
725.355 Action Leakage Rates  
725.356 Special Requirements for Ignitable or Reactive Wastes  
725.357 Special Requirements for Incompatible Wastes  
725.358 Closure and Post-Closure Care  
725.359 Response Actions  
725.360 Monitoring and Inspections

SUBPART M: LAND TREATMENT

Section

725.370 Applicability  
725.372 General Operating Requirements  
725.373 Waste Analysis  
725.376 Food Chain Crops  
725.378 Unsaturated Zone (Zone of Aeration) Monitoring  
725.379 Recordkeeping  
725.380 Closure and Post-Closure Care  
725.381 Special Requirements for Ignitable or Reactive Wastes  
725.382 Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

Section

725.400 Applicability  
725.401 Design Requirements  
725.402 Action Leakage Rate  
725.403 Response Actions  
725.404 Monitoring and Inspections  
725.409 Surveying and Recordkeeping  
725.410 Closure and Post-Closure Care  
725.412 Special Requirements for Ignitable or Reactive Wastes  
725.413 Special Requirements for Incompatible Wastes  
725.414 Special Requirements for Liquid Wastes  
725.415 Special Requirements for Containers  
725.416 Disposal of Small Containers of Hazardous Waste in Overpacked  
Drums (Lab Packs)

SUBPART O: INCINERATORS

Section

725.440 Applicability  
725.441 Waste Analysis  
725.445 General Operating Requirements  
725.447 Monitoring and Inspections  
725.451 Closure  
725.452 Interim Status Incinerators Burning Particular Hazardous  
Wastes

SUBPART P: THERMAL TREATMENT

Section

- 725.470 Other Thermal Treatment
- 725.473 General Operating Requirements
- 725.475 Waste Analysis
- 725.477 Monitoring and Inspections
- 725.481 Closure
- 725.482 Open Burning; Waste Explosives
- 725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Wastes

SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

Section

- 725.500 Applicability
- 725.501 General Operating Requirements
- 725.502 Waste Analysis and Trial Tests
- 725.503 Inspections
- 725.504 Closure
- 725.505 Special Requirements for Ignitable or Reactive Wastes
- 725.506 Special Requirements for Incompatible Wastes

SUBPART R: UNDERGROUND INJECTION

Section

- 725.530 Applicability

SUBPART W: DRIP PADS

Section

- 725.540 Applicability
- 725.541 Assessment of Existing Drip Pad Integrity
- 725.542 Design and Installation of New Drip Pads
- 725.543 Design and Operating Requirements
- 725.544 Inspections
- 725.545 Closure

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section

- 725.930 Applicability
- 725.931 Definitions
- 725.932 Standards: Process Vents
- 725.933 Standards: Closed-Vent Systems and Control Devices
- 725.934 Test Methods and Procedures
- 725.935 Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section

725.950 Applicability  
725.951 Definitions  
725.952 Standards: Pumps in Light Liquid Service  
725.953 Standards: Compressors  
725.954 Standards: Pressure Relief Devices in Gas/Vapor Service  
725.955 Standards: Sampling Connecting Systems  
725.956 Standards: Open-Ended Valves or Lines  
725.957 Standards: Valves in Gas/Vapor or Light Liquid Service  
725.958 Standards: Pumps, Valves, Pressure Relief Devices, Flanges,  
and Other Connectors  
725.959 Standards: Delay of Repair  
725.960 Standards: Closed-Vent Systems and Control Devices  
725.961 Percent Leakage Alternative for Valves  
725.962 Skip Period Alternative for Valves  
725.963 Test Methods and Procedures  
725.964 Recordkeeping Requirements

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

Section

725.980 Applicability  
725.981 Definitions  
725.982 Schedule for Implementation of Air Emission Standards  
725.983 Standards: General  
725.984 Waste Determination Procedures  
725.985 Standards: Tanks  
725.986 Standards: Surface Impoundments  
725.987 Standards: Containers  
725.988 Standards: Closed-Vent Systems and Control Devices  
725.989 Inspection and Monitoring Requirements  
725.990 Recordkeeping Requirements  
725.991 Alternative Tank Emission Control Requirements (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section

725.1100 Applicability  
725.1101 Design and Operating Standards  
725.1102 Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

Section

725.1200 Applicability  
725.1201 Design and Operating Standards  
725.1202 Closure and Post-Closure Care

725.APPENDIX A Recordkeeping Instructions  
725.APPENDIX B EPA Report Form and Instructions (Repealed)  
725.APPENDIX C USEPA Interim Primary Drinking Water Standards  
725.APPENDIX D Tests for Significance  
725.APPENDIX E Examples of Potentially Incompatible Wastes

725.APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X  
(at 25-~~°C~~-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. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg.

11830, effective August 9, 2016; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

##### Section 725.101 Purpose, Scope, and Applicability

a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are fulfilled.

b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste and which have fully complied with the requirements for interim status pursuant to Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6925(e)) and 35 Ill. Adm. Code 703, until either a permit is issued pursuant to Section 3005 of the Resource Conservation and Recovery Act (42 USC 6905) or Section 21(f) of the Environmental Protection Act ~~{415 ILCS 5/21(f)}~~, or until applicable closure and post-closure care responsibilities pursuant to this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by section ~~Section~~ 3010(a) of RCRA (42 USC 6930(a) ~~6910(a)~~) or that have failed to file Part A of the Permit Application, as required by federal 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities ~~after November 19, 1980,~~ except as specifically provided otherwise in this Part or in 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA (42 USC 6905(a)), after the effective date of regulations pursuant to that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA (42 USC 6905(e)) provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.

c) The requirements of this Part do not apply to any of the following:

1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued pursuant to the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401 et seq.);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for

incineration or disposal at sea, as provided in subsection (b) ~~of this Section.~~

2) This subsection (c)(2) corresponds with 40 CFR 265.1(c)(2), marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules;

3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste;

BOARD NOTE: The owner or operator of a facility pursuant to subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person pursuant to 35 Ill. Adm. Code 702 and 703 or are required by Subpart F of 35 Ill. Adm. Code 704.

4) This subsection (c)(4) corresponds with 40 CFR 265.1(c)(4), which pertains exclusively to the applicability of the federal regulations in authorized states. There is no need for a parallel provision in the Illinois regulations. This statement maintains structural consistency with USEPA rules;

5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation pursuant to this Part by 35 Ill. Adm. Code 722.114 ~~721.105~~;

6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739;

7) A generator accumulating waste on-site in compliance with applicable conditions for exemption in 35 Ill. Adm. Code 722.114 through 722.117 and Subparts K and L of 35 Ill. Adm. Code ~~722-35 Ill. Adm. Code-722.134, 722.~~ except to the extent the requirements of this Part are included in those Sections and Subparts ~~35 Ill. Adm. Code 722.134~~;

8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;

9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T of 35 Ill. Adm. Code 728) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set forth in Section 725.117(b);

11) Immediate response.

A) Except as provided in subsection (c) (11) (B) ~~of this Section~~, a person engaged in treatment or containment activities during immediate response to any of the following situations:

i) A discharge of a hazardous waste;

ii) An imminent and substantial threat of a discharge of a hazardous waste;

iii) A discharge of a material that becomes a hazardous waste when discharged; or

iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D ~~of this Part~~.

C) Any person that is covered by subsection (c) (11) (A) ~~of this Section~~ that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;

D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to adequately protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at

the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;

14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation pursuant to 35 Ill. Adm. Code 733 when handling the following universal wastes:

- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
- B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
- C) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;
- D) Lamps, as described in 35 Ill. Adm. Code 733.105.

d) The following hazardous wastes must not be managed at facilities subject to regulation pursuant to this Part: USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027, unless the following conditions are fulfilled:

- 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
  - 2) The waste is stored in tanks or containers;
  - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of Subpart L ~~of this Part~~;
  - 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
  - 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.
- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
- f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste pursuant to 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738.

g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

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

#### Section 725.104 Imminent Hazard Action

Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to Title VIII of the Illinois Environmental Protection Act ~~[415 ILCS 5/Title VIII]~~.

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

#### SUBPART B: GENERAL FACILITY STANDARDS

##### Section 725.112 Required Notices

a) Receipt from a foreign source. The owner or operator of a facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, from a foreign source must submit the following required notices:

1) As required by 35 Ill. Adm. Code 722.184(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from USEPA and the competent authorities for the countries of transit, the owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to USEPA using the allowable methods listed in 35 Ill. Adm. Code 722.184(b)(1) ~~The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Agency and USEPA Region 5 in writing~~ at least 60 days before ~~four weeks in advance of~~ the first shipment ~~date the waste is expected to depart the country of export.~~ ~~arrive at the facility.~~ The notification may cover up to one year of ~~Notice of subsequent~~ shipments of wastes having similar physical and chemical characteristics; the same United Nations/USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111; the same USEPA ~~hazardous waste~~ hazardous waste numbers; and the same applicable OECD waste codes from the lists in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111; and being sent from the same foreign exporter ~~source is not required.~~

2) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), ~~The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 must provide a copy~~

of the movement document bearing all required signatures ~~to the foreign exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to the competent authorities of all other countries concerned~~ within three working days after receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using USEPA's Waste Import Export Tracking System (WIETS). The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS for which the owner or operator of a facility bears no responsibility. ~~In addition, such owner or operator must send a certificate of recovery to the foreign exporter, to the competent authority of the country of export, to USEPA's Office of Enforcement and Compliance Assurance at the above address by mail, by e mail without a digital signature followed by mail, or by fax followed by mail. The owner or operator must complete this sending of a certificate of recovery as soon as possible, but no later than 30 days after the completion of recovery, and no later than one calendar year following the receipt of the hazardous waste.~~

3) As required by 35 Ill. Adm. Code 722.184(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform USEPA, using the allowable methods listed in 35 Ill. Adm. Code 722.184(b)(1) of the need to return or arrange alternate management of the shipment.

4) As required by 35 Ill. Adm. Code 722.184(g), such owner or operator must:

A) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste. For shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS.

B) If the facility performed any of recovery operations R12, R13, or RC16 or disposal operations D13 through D15 or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11 or RC16 or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste. On or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS. The recovery and disposal operations in this paragraph are defined in 35 Ill. Adm. Code 722.181.

b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this Part and 35 Ill. Adm. Code 702 and 703 (also see 35 Ill. Adm. Code 703.155).

BOARD NOTE: An owner's or operator's failure to notify the new owner or operator of the requirements of this Part in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

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

#### Section 725.113 General Waste Analysis

a) Waste analysis:

1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 725.213(d), the 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 that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.

2) The analysis may include data developed under 35 Ill. Adm. Code 721 and existing published or documented data on the hazardous waste or on waste generated from similar processes.

BOARD NOTE: For example, the facility's record of analyses performed on the waste before the effective date of these regulations or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility may be included in the data base required to comply with subsection (a)(1) ~~of this Section~~, except as otherwise specified in 35 Ill. Adm. Code 728.107(b) and (c). The owner or operator of an off-site facility may

arrange for the generator of the hazardous waste to supply part or all of the information required by subsection (a) (1) ~~of this Section~~. If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.

3) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated as follows:

A) When the owner or operator is notified or has reason to believe that the process or operation generating the hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), has changed; and

B) For off-site facilities, when the results of the inspection required in subsection (a) (4) ~~of this Section~~ indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

4) The owner or operator of an off-site facility must inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

b) The owner or operator must develop and follow a written waste analysis plan that describes the procedures that the owner or operator will carry out to comply with subsection (a) ~~of this Section~~. The owner or operator must keep this plan at the facility. At a minimum, the plan must specify the following:

1) The parameters for which each hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (a) ~~of this Section~~).

2) The test methods that will be used to test for these parameters.

3) The sampling method that will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either of the following methods:

A) One of the sampling methods described in Appendix A to 35 Ill. Adm. Code 721, or

B) An equivalent sampling method.

BOARD NOTE: See 35 Ill. Adm. Code 720.120(c) for related discussion.

4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.

5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply.

6) Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods, as specified in Sections 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934(d), 725.963(d), and 725.984 and 35 Ill. Adm. Code 728.107.

7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for the following:

A) The sampling of impoundment contents;

B) The analysis of test data; and

C) The annual removal of residues that are not delisted under 35 Ill. Adm. Code 720.122 or that exhibit a characteristic of hazardous waste and either of the following is true:

i) The waste residues do not meet the applicable treatment standards of Subpart D of 35 Ill. Adm. Code 728, or

ii) Where no treatment standards have been established, the waste residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139.

8) For an owner or operator seeking an exemption to the air emission standards of Subpart CC of 35 Ill. Adm. Code 724 in accordance with Section 725.983:

A) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the analysis of test data to verify the exemption.

B) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator, or by the generator of the waste if the waste is received from off-site, that is used as the basis for knowledge of the waste.

c) For off-site facilities, the waste analysis plan required in subsection (b) ~~of this Section~~ must also specify the procedures that will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe the following:

- 1) The procedures that will be used to determine the identity of each movement of waste managed at the facility;
- 2) The sampling method that will be used to obtain a representative sample of the waste to be identified if the identification method includes sampling; and
- 3) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

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

#### Section 725.114 Security

- a) The owner or operator must prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons or livestock onto the active portion of his facility, unless the following are true:
  - 1) Physical contact with the waste, structures, or equipment of the active portion of the facility will not injure unknowing or unauthorized persons or livestock that may enter the active portion of the facility; and
  - 2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of this Part.
- b) Unless exempt under subsections (a)(1) and (a)(2) ~~of this Section~~, a facility must have the following:
  - 1) A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry into the active portion of the facility; or
  - 2) Controlled access, including the following minimum elements:
    - A) An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility; and
    - B) A means to control entry at all times through the gates or other entrances to the active portion of the facility (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

BOARD NOTE: The requirements of subsection (b) ~~of this Section~~ are satisfied if the facility or plant within which the active portion is located itself has a surveillance system or a barrier and a means to

control entry that complies with the requirements of subsection (b) (1) or (b) (2) ~~of this Section~~.

c) Unless exempt under subsection (a) (1) or (a) (2) ~~of this Section~~, a sign with the legend, "Danger - Unauthorized Personnel Keep Out", must be posted at each entrance to the active portion of a facility and at other locations in sufficient numbers to be seen from any approach to this active portion. The sign must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

BOARD NOTE: See Section 725.217(b) for discussion of security requirements at disposal facilities during the post-closure care period.

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

#### Section 725.116 Personnel Training

a) Personnel training program.

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 owner or operator must ensure that this program includes all the elements described in the document required under subsection (d) (3) ~~of this Section~~.

2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems, including the following where applicable:

- A) Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment;
- B) Key parameters for automatic waste feed cut-off systems;
- C) Communications or alarm systems;
- D) Response to fires or explosions;
- E) Response to groundwater contamination incidents; and



a) CQA program.

1) A construction quality assurance (CQA) program is required for all surface impoundment, waste pile and landfill units that are required to comply with Sections 725.321(a), 725.354, and 725.401(a). The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in this Part. The program must be developed and implemented under the direction of a CQA officer that is a registered professional engineer.

2) The CQA program must address the following physical components, where applicable:

A) Foundations;

B) Dikes;

C) Low-permeability soil liners;

D) Geomembranes (flexible membrane liners);

E) Leachate collection and removal systems and leak detection systems; and

F) Final cover systems.

b) Written CQA plan. Before construction begins on a unit subject to the CQA program under subsection (a) ~~of this Section~~, the owner or operator must develop a written CQA plan. The plan must identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan must include the following:

1) Identification of applicable units and a description of how they will be constructed.

2) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

3) A description of inspection and sampling activities for all unit components identified in subsection (a) (2) ~~of this Section~~, including observations and tests that will be used before, during and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description must cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under Section 725.173.

c) Contents of program.

1) The CQA program must include observations, inspections, tests and measurements sufficient to ensure the following:

A) Structural stability and integrity of all components of the unit identified in subsection (a) (2) ~~of this Section~~;

B) Proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

C) Conformity of all materials used with design and other material specifications under 35 Ill. Adm. Code 724.321, 724.351, and 724.401.

2) The CQA program must include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c) (1), 724.351(c) (1), or 724.401(c) (1) in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c) (1), 724.351(c) (1), or 724.401(c) (1) in the field.

d) Certification. The owner or operator of units subject to this Section must submit to the Agency by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of Sections 725.321(a), 725.354, or 725.401(a). The owner or operator may receive waste in the unit after 30 days from the Agency's receipt of the CQA certification unless the Agency determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the Agency upon request.

e) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

(Source: Amended at 42 Ill. Reg. ~~—~~, effective \_\_\_\_\_)

#### SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

##### Section 725.171 Use of Manifest System

a) Receipt of manifested hazardous waste.

1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a) (2) ~~of this Section~~, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:

A) The owner, operator, or agent must sign and date, by hand, each copy of the manifest;

B) The owner, operator, or agent must note any discrepancies (as defined in 35 Ill. Adm. Code 724.172) on each copy of the manifest;

C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;

D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;

E) Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of the manifest to the e-Manifest System for purposes of data entry and processing. In lieu of mailing this paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to the e-Manifest System operator under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3) The owner or operator of ~~if~~ a facility that receives hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 ~~imported~~ from a foreign source must: ~~the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.~~

~~A)~~ Additionally list the relevant consent number from consent documentation supplied by USEPA to the facility for each waste listed on the hazardous waste manifest (USEPA Form 8700-22), matched to the

relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use Continuation Sheets (USEPA Form 8700-22A); and

B) Send a copy of the manifest to USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) within 30 days of delivery until the facility can submit such a copy to the e-Manifest system per subsection (a) (2) (E).

b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:

1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 apply to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 only apply to an owner or

operator that ships hazardous waste which it generated at that facility or operating as an LQG consolidating hazardous waste from VSQGs under 35 Ill. Adm. Code 722.117(f).

~~BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that are shipping hazardous waste which they generated at that facility.~~

d) As required by 40 CFR 262.84(d)(2)(O), within ~~Within~~ after three working days ~~of~~ after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; ~~and to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to~~ and to the competent authorities of the ~~all other~~ countries of export and transit that control the shipment as an export or transit of hazardous waste. On or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS ~~concerned~~. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS, for which the owner or operator of a facility bears no responsibility.

e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.

f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.

1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.

2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.

3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.

4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.

5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.

g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.

h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;

2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;

3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one



3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).

b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d) Rejection of hazardous waste.

1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f) ~~of this Section~~.

e) Except as provided in subsection (e)(7) ~~of this Section~~, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (e)(1) through (e)(6) ~~of this Section~~:

1) The facility owner or operator must write the generator's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the

generator's site address, then the facility owner or operator must write the generator's site address in the designated space in Item 5.

2) The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6) ~~of this Section~~.

f) Except as provided in subsection (f)(7) ~~of this Section~~, for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (f)(1) through (f)(6) and (f)(8) ~~of this Section~~:

1) The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then the facility owner or operator must write the facility's site address in the designated space for Item 5 of the new manifest.

- 2) The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.
- 3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.
- 4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).
- 5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.
- 6) The facility owner or operator must sign the Generator's/Offerrer's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.
- 7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8) ~~of this Section~~.
- 8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in Section 722.142(a).
- g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the

amended manifest to the transporter and generator that received copies prior to their being amended.

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

#### Section 725.173 Operating Record

- a) The owner or operator must keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows:
  - 1) A description and the quantity of each hazardous waste received and the methods and dates of its treatment, storage, or disposal at the facility, as required by Appendix A ~~to this Part~~. This information must be maintained in the operating record until closure of the facility;
  - 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities the location and quantity of each hazardous waste must be recorded on a map or diagram that shows each cell or disposal area. For all facilities this information must include cross-references to manifest document numbers if the waste was accompanied by a manifest. This information must be maintained in the operating record until closure of the facility;  
  
BOARD NOTE: See Sections 725.219, 725.379, and 725.409 for related requirements.
  - 3) Records and results of waste analysis, waste determinations, and trial tests performed, as specified in Sections 725.113, 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;
  - 4) Summary reports and details of all incidents that require implementing the contingency plan, as specified in Section 725.156(j);
  - 5) Records and results of inspections, as required by Section 725.115(d) (except these data need be kept only three years);
  - 6) Monitoring, testing, or analytical data, where required by Subpart F of this Part or Sections 725.119, 725.194, 725.291, 725.293, 725.295, 725.324, 725.326, 725.355, 725.360, 725.376, 725.378, 725.380(d)(1), 725.402, 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and 725.983 through 725.990. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility;

BOARD NOTE: As required by Section 725.194, monitoring data at disposal facilities must be kept throughout the post-closure period.

- 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244 must be maintained in the operating record until closure of the facility;
- 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or a certification under 35 Ill. Adm. Code 728.108 and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a). All of this information must be maintained in the operating record until closure of the facility;
- 9) For an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 10) For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;
- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;
- 13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 14) For an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and
- 15) Monitoring, testing or analytical data, and corrective action, where required by Sections 725.190 and 725.193(d)(2) and (d)(5), and the certification, as required by Section 725.296(f), must be maintained in the operating record until closure of the facility.

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

#### Section 725.175 Annual Report

The owner and operator must complete ~~prepare~~ and submit a Hazardous Waste Report (USEPA Form ~~8700~~87-13 A/B) ~~a single copy of an annual report~~ to the Agency by March 1 of the following ~~each year and. The report form and instructions supplied by the Agency must be used for this report. The annual report~~year and must cover facility activities during the previous calendar year. ~~and must include the following information:~~

- a) ~~The USEPA identification number (Section 725.111), name, and address of the facility;~~
- b) ~~The calendar year covered by the report;~~
- e) ~~For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;~~
- d) ~~A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities this information must be listed by USEPA identification number of each generator;~~
- e) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
- f) ~~Monitoring data under Section 725.194(a)(2)(B), (a)(2)(C), and (b)(2), where required;~~
- g) ~~The most recent closure cost estimate under Section 725.242 and for disposal facilities the most recent post-closure cost estimate under Section 725.244;~~
- h) ~~For generators that treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated;~~
- i) ~~For generators that treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years, to the extent such information is available for years prior to 1984; and~~
- j) ~~The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.~~

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

#### Section 725.176 Unmanifested Waste Report

- a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265, then the

owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:

- 1) The USEPA identification number, name, and address of the facility;
  - 2) The date the facility received the waste;
  - 3) The USEPA identification number, name, and address of the generator and the transporter, if available;
  - 4) A description and the quantity of each unmanifested hazardous waste the facility received;
  - 5) The method of treatment, storage, or disposal for each hazardous waste;
  - 6) The certification signed by the owner or operator of the facility or its authorized representative; and
  - 7) A brief explanation of why the waste was unmanifested, if known.
- b) This subsection (b) corresponds with 40 CFR 265.76(b), which USEPA has marked "reserved-". This statement maintains structural consistency with the corresponding federal regulations.

BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under this Part and do not require a manifest. Where a facility received unmanifested hazardous waste, USEPA has suggested that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, USEPA has suggested that the owner or operator file an unmanifested waste report for the hazardous waste movement.

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

#### Section 725.177 Additional Reports

In addition to submitting the annual report and unmanifested waste reports described in Sections 725.175 and 725.176, the owner or operator must also report the following information to the Agency:

- a) Releases, fires, and explosions, as specified in Section 725.156(j);
- b) Groundwater contamination and monitoring data, as specified in Section 725.193 and 725.194;
- c) Facility closure, as specified in Section 725.215; and



d) If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters in accordance with Sections 725.191 and 725.192 would show statistically significant increases (or decreases in the case of pH) when evaluated pursuant to Section 725.193(b), it may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in Sections 725.191 and 725.192). If the owner or operator decides to use an alternate groundwater monitoring system it must have done as follows:

1) The owner or operator must develop a specific plan, certified by a qualified geologist or geotechnical engineer, that satisfies the requirements of federal 40 CFR 265.93(d)(3) for an alternate groundwater monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility;

2) The owner or operator must have initiated the determinations specified in federal 40 CFR 265.93(d)(4);

3) The owner or operator must prepare a written report in accordance with Section 725.193(d)(5) and place it in the facility's operating record and maintain until closure of the facility;

4) The owner or operator must continue to make the determinations specified in Section 725.193(d)(4) on a quarterly basis until final closure of the facility; and

5) The owner or operator must comply with the recordkeeping and reporting requirements in Section 725.194(b).

e) The groundwater monitoring requirements of this Subpart F may be waived with respect to any surface impoundment of which the following is true:

1) The impoundment is used to neutralize wastes that are hazardous solely because they exhibit the corrosivity characteristic pursuant to 35 Ill. Adm. Code 721.122 or which are listed as hazardous wastes in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

2) The impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional.

f) A permit or enforceable document can contain alternative requirements for groundwater monitoring that replace all or part of the requirements of this Subpart F applicable to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided pursuant to 35 Ill.



- C) Manganese,
- D) Phenols,
- E) Sodium, and
- F) Sulfate.

BOARD NOTE: These parameters are to be used as a basis for comparison in the event a groundwater quality assessment is required under Section 725.193(d).

3) The following parameters used as indicators of groundwater contamination:

- A) pH,
  - B) Specific Conductance,
  - C) Total Organic Carbon, and
  - D) Total Organic Halogen.
- c) Establishing background concentrations.

1) For all monitoring wells, the owner or operator must establish initial background concentrations or values of all parameters specified in subsection (b) ~~of this Section.~~ The owner or operator must do this quarterly for one year.

2) For each of the indicator parameters specified in subsection (b)(3) ~~of this Section~~, the owner or operator must obtain at least four replicate measurements for each sample and determine the initial background arithmetic mean and variance by pooling the replicate measurements for the respective parameter concentrations or values in samples obtained from upgradient wells during the first year.

d) After the first year, the owner or operator must sample all monitoring wells and analyze the samples with the following frequencies:

1) Samples collected to establish groundwater quality must be obtained and analyzed for the parameters specified in subsection (b)(2) ~~of this Section~~ at least annually.

2) Samples collected to indicate groundwater contamination must be obtained and analyzed for the parameters specified in subsection (b)(3) ~~of this Section~~ at least semi-annually.

e) The owner or operator must determine the elevation of the groundwater surface at each monitoring well each time a sample is obtained.

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

Section 725.193 Preparation, Evaluation, and Response

a) The ~~By no later than November 19, 1981, the~~ owner or operator must prepare ~~have prepared~~ an outline of a groundwater quality assessment program. The outline must describe a more comprehensive groundwater monitoring program (than that described in Sections 725.191 and 725.192) capable of determining each of the following:

- 1) Whether hazardous waste or hazardous waste constituents have entered the groundwater;
- 2) The rate and extent of migration of hazardous waste or hazardous waste constituents in the groundwater; and
- 3) The concentrations of hazardous waste or hazardous waste constituents in the groundwater.

b) For each indicator parameter specified in Section 725.192(b)(3), the owner or operator must calculate the arithmetic mean and variance, based on at least four replicate measurements on each sample, for each well monitored in accordance with Section 725.192(d)(2) and compare these results with its initial background arithmetic mean. The comparison must consider individually each of the wells in the monitoring system and must use the Student's t-test at the 0.01 level of significance (see Appendix D) to determine statistically significant increases (and decreases, in the case of pH) over initial background.

c) Well comparisons.

1) If the comparisons for the upgradient wells made under subsection (b) ~~of this Section~~ show a significant increase (or pH decrease) the owner or operator must submit this information in accordance with Section 725.194(a)(2)(B).

2) If the comparisons for downgradient wells made under subsection (b) ~~of this Section~~ show a significant increase (or pH decrease) the owner or operator must then immediately obtain additional groundwater samples for those downgradient wells where a significant difference was detected, split the samples in two and obtain analyses of all additional samples to determine whether the significant difference was a result of laboratory error.

d) Notice to the Agency.

1) If the analyses performed under subsection (c)(2) ~~of this Section~~ confirm the significant increase (or pH decrease) the owner or operator must provide written notice to the Agency - within seven days after the

date of such confirmation - that the facility may be affecting groundwater quality.

- 2) Within 15 days after the notification under subsection (d) (1) ~~of this Section~~, the owner or operator must develop a specific plan, based on the outline required under subsection (a) ~~of this Section~~ and certified by a qualified geologist or geotechnical engineer for a groundwater quality assessment at the facility. This plan must be placed in the facility operating record and be maintained until closure of the facility.
- 3) The plan to be submitted under Section 725.190(d) (1) or subsection (d) (2) ~~of this Section~~ must specify all of the following:
  - A) The number, location, and depth of wells;
  - B) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;
  - C) Evaluation procedures, including any use of previously gathered groundwater quality information; and
  - D) A schedule of implementation.
- 4) The owner or operator must implement the groundwater quality assessment plan that satisfies the requirements of subsection (d) (3) ~~of this Section~~ and, at a minimum, determine each of the following:
  - A) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the groundwater; and
  - B) The concentrations of the hazardous waste or hazardous waste constituents in the groundwater.
- 5) The owner or operator must make his first determination under subsection (d) (4) ~~of this Section~~, as soon as technically feasible, and prepare a report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.
- 6) If the owner or operator determines, based on the results of the first determination under subsection (d) (4) ~~of this Section~~, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in Section 725.192 and subsection (b) ~~of this Section~~. If the owner or operator reinstates the indicator evaluation program, he must so notify the Agency in the report submitted under subsection (d) (5) ~~of this Section~~.
- 7) If the owner or operator determines, based on the first determination under subsection (d) (4) ~~of this Section~~, that hazardous

waste or hazardous waste constituents from the facility have entered the groundwater, then the owner or operator must do either of the following:

- A) It must continue to make the determinations required under subsection (d) (4) ~~of this Section~~ on a quarterly basis until final closure of the facility if the groundwater quality assessment plan was implemented prior to final closure of the facility; or
- B) It may cease to make the determinations required under subsection (d) (4) ~~of this Section~~ if the groundwater quality assessment plan was implemented during the post-closure care period.
- e) Notwithstanding any other provision of this Subpart F, any groundwater quality assessment to satisfy the requirements of subsection (d) (4) ~~of this Section~~ that is initiated prior to final closure of the facility must be completed and reported in accordance with subsection (d) (5) ~~of this Section~~.
- f) Unless the groundwater is monitored to satisfy the requirements of subsection (d) (4) ~~of this Section~~ at least annually the owner or operator must evaluate the data on groundwater surface elevations obtained under Section 725.192(e) to determine whether the requirements under Section 725.191(a) for locating the monitoring wells continues to be satisfied. If the evaluation shows that Section 725.191(a) is no longer satisfied, the owner or operator must immediately modify the number, location, or depth of the monitoring wells to bring the groundwater monitoring system into compliance with this requirement.

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

#### SUBPART G: CLOSURE AND POST-CLOSURE CARE

##### Section 725.210 Applicability

Except as Section 725.101 provides otherwise, the following requirements apply as indicated:

- a) Sections 725.211 through 725.215 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and
- b) Sections 725.216 through 725.220 (which concern post-closure care) apply to the owners and operators of the following:
  - 1) All hazardous waste disposal facilities;
  - 2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these Sections are made applicable to such facilities in Section 725.328 or 725.358;

3) Tank systems that are required pursuant to Section 725.297 to meet requirements for landfills; or

4) Containment buildings that are required pursuant to Section 725.1102 to meet the requirement for landfills.

c) Section 725.221 applies to owners and operators of units that are subject to the requirements of 35 Ill. Adm. Code 703.161 and which are regulated under an enforceable document (as established pursuant to 35 Ill. Adm. Code 703.161).

d) A permit or enforceable document can contain alternative requirements that replace all or part of the closure and post-closure care requirements of this Subpart G (and the unit-specific standards in Section 725.211(c)) applying to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided in 35 Ill. Adm. Code 703.161, where the Board has determined by an adjusted standard granted pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104 the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the closure requirements of this Subpart G (and those referenced herein) because the alternative requirements will adequately protect human health and the environment, and will satisfy the closure performance standard of Section 725.211 (a) and (b).

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

#### Section 725.212 Closure Plan; Amendment of Plan

a) Written plan. Within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

b) Content of plan. The plan must identify the steps necessary to perform partial or final closure of the facility at any point during its active life. The closure plan must include the following minimal information:

- 1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 725.211;
  - 2) A description of how final closure of the facility will be conducted in accordance with Section 725.211. The description must identify the maximum extent of the operation that will be unclosed during the active life of the facility;
  - 3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing, or disposing of all hazardous waste, and identification of and the types of off-site hazardous waste management units to be used, if applicable;
  - 4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard;
  - 5) A detailed description of other activities necessary during the partial and final closure periods to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and runoff and runoff control;
  - 6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.);
  - 7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Section 725.243 or 725.245 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans; and
  - 8) For a facility where alternative requirements are established at a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided under 35 Ill. Adm. Code 703.161, either the alternative requirements applying to the regulated unit or a reference to the enforceable document containing those alternative requirements.
- c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure

of the facility. An owner or operator with an approved closure plan must submit a written request to the Agency to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Agency.

1) The owner or operator must amend the closure plan whenever any of the following occurs:

A) Changes in the operating plans or facility design affect the closure plan;

B) Whenever there is a change in the expected year of closure, if applicable;

C) In conducting partial or final closure activities, unexpected events require a modification of the closure plan; or

D) The owner or operator requests the establishment of alternative requirements, as provided under 35 Ill. Adm. Code 703.161, to a regulated unit under Section 725.190(f), 725.210(c), or 725.240(d).

2) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Section 725.410.

3) An owner or operator with an approved closure plan must submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles that intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Section 725.410. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must be approved according to the procedures in subsection (d)(4) ~~of this Section.~~

4) The Agency may request modifications to the plan under the conditions described in subsection (c)(1) ~~of this Section.~~ An owner or operator with an approved closure plan must submit the modified plan within 60 days after the request from the Agency, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280, the modification to the plan must

be approved in accordance with the procedures in subsection (d) (4) ~~of this Section.~~

d) Notification of partial closure and final closure.

1) When notice is required.

A) The owner or operator must submit the closure plan to the Agency at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier.

B) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.

C) The owner or operator must submit the closure plan to the Agency at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

D) An owner or operator with an approved closure plan must notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit.

E) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.

F) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

2) The date when the owner or operator "expects to begin closure" must be either of the following dates:

A) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator has taken and will continue to take, all steps to prevent threats to human health and the

environment, including compliance with all interim status requirements, the Agency must approve an extension to this one-year limit; or

B) For units meeting the requirements of Section 725.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator demonstrates to the Agency that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements, the Agency must approve an extension to this one-year limit.

3) The owner or operator must submit the closure plan to the Agency no later than 15 days after occurrence of either of the following events:

A) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

B) Issuance of a judicial decree or Board order to cease receiving hazardous wastes or to close the facility or unit.

4) The Agency must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan no later than 30 days from the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments and the two notices may be combined.) The Agency must approve, modify, or disapprove the plan within 90 days after its receipt. If the Agency does not approve the plan, the Agency must provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Agency must approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved closure plan. The Agency must assure that the approved plan is consistent with Sections 725.211 through 725.215 and the applicable requirements of Sections 725.190 et seq., 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section precludes the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

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

#### Section 725.213 Closure; Time Allowed for Closure

a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) ~~of this Section~~ at a hazardous waste management unit or facility, or 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Agency must approve a longer period if the owner or operator demonstrates the following:

1) The need to remain in operation by showing either of the following conditions exists:

A) The activities required to comply with this subsection (a) will, of necessity, take longer than 90 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) ~~of this Section~~;

ii) There is a reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable interim status requirements.

b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements of subsections (d) and (e) ~~of this Section~~ at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Agency must approve

an extension to the closure period if the owner or operator demonstrates the following:

1) The need to remain in operation by showing either of the following conditions exists:

A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) ~~of this Section~~; and

ii) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

c) The demonstration referred to in subsections (a) (1) and (b) (1) ~~of this Section~~ must be made as follows:

1) The demonstration in subsection (a) (1) ~~of this Section~~ must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) ~~of this Section~~; and

2) The demonstrations in subsection (b) (1) ~~of this Section~~ must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) ~~of this Section~~, unless the owner or operator is otherwise subject to deadlines in subsection (d) ~~of this Section~~.

d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive non-hazardous wastes in a landfill, land treatment unit or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following are true:

1) The owner or operator submits an amended Part B application, or a new Part B application if none was previously submitted, and demonstrates the following:

A) The unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

B) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous waste in the unit within one year after the final receipt of hazardous wastes;

C) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility pursuant to this Part;

D) Closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

E) The owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements;

2) The Part B application includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required pursuant to 35 Ill. Adm. Code 703.186, closure and post-closure care plans, updated cost estimates, and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes and changes in closure activities, including the expected year of closure, if applicable pursuant to Section 725.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The Part B application is amended, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The Part B application and the demonstrations referred to in subsections (d)(1) and (d)(2) ~~of this Section~~ are submitted to the Agency no later than 180 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes or no later than 90 days after this Section applies to the facility, whichever is later.

e) Surface impoundments. In addition to the requirements in subsection (d) ~~of this Section~~, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 725.321(a) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

A) A plan for removing hazardous wastes; and

B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

A) Removing all hazardous liquids;

B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and

ii) That an extension will not pose a threat to human health and the environment.

3) The following is required of contingent corrective measures plan:

A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

B) It may be a portion of a corrective action plan previously submitted pursuant to Section 724.199.

C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Release. A release is a statistically significant increase (or decrease in the case of pH) in hazardous constituents over background levels, detected in accordance with the requirements in Subpart F ~~of this Part~~.

5) In the event of a release, the owner or operator of the unit must perform the following actions:

A) Within 35 days, the owner or operator must file with the Board a petition for adjusted standard pursuant to Section 28.1 of the Act ~~[415-ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to require the owner or operator to perform either of the following actions:

i) Begin to implement the corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

iii) The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e) (7) ~~of this Section~~;

B) The owner or operator must implement the contingent corrective measures plan; and

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Annual report. During the period of corrective action, the owner or operator must provide annual reports to the Agency that fulfill the following requirements:

A) They must describe the progress of the corrective action program;

B) They must compile all groundwater monitoring data; and

C) They must evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

A) The Board will terminate the adjusted standard if the owner or operator failed to implement corrective action measures in accordance with the approved contingent corrective measures plan.

B) The Board will terminate the adjusted standard if the owner or operator fails to make substantial progress in implementing the corrective measures plan and achieving the facility's groundwater protection standard, or background levels if the facility has not yet established a groundwater protection standard.

C) The adjusted standard will automatically terminate if the owner or operator fails to implement the removal plan.

D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.

8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection.

A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act ~~[415-ILCS-5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104 to petition the Board for an adjusted standard.



B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N ~~of this Part~~.

2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Board will, by an adjusted standard granted pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104 or by an order in some other appropriate type of proceeding (e.g., an enforcement proceeding), do the following:

A) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Board finds that the reduced period is sufficient to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results; characteristics of the hazardous waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

B) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Board finds that the extended period is necessary to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

3) As provided by Section 725.218(i), the Board will utilize site-specific rulemaking to adjust the length of the post-closure care period.

b) The Agency must require, at partial or final closure, continuation of any of the security requirements of Section 725.214 during part or all of the post-closure period when either of the following occurs:

1) Hazardous wastes may remain exposed after completion of partial or final closure; or

2) Access by the public or domestic livestock may pose a hazard to human health.

c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of any containment system or the function of the facility's monitoring systems, unless the Agency determines either of the following with respect to the disturbance:

1) It is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

2) It is necessary to reduce a threat to human health or the environment.

d) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan, as specified in Section 725.218.

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

Section 725.218 Post-Closure Care Plan; Amendment of Plan

a) Written Plan. The owner or operator of a hazardous waste disposal unit must have a written post-closure care plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure care plan and submit it to the Agency within 90 days after the date that the owner or operator or Agency determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of Sections 725.217 through 725.220.

b) Until final closure of the facility, a copy of the most current post-closure care plan must be furnished to the Agency upon request, including request by mail. In addition, for facilities without approved post-closure care plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee, or representative of the Agency. After final closure has been certified, the person or office specified in subsection (c)(3) must keep the approved post-closure care plan during the post-closure care period.

c) For each hazardous waste management unit subject to the requirements of this Section, the post-closure care plan must identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities and include the following minimal information:

1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M, and ~~N-of this Part~~ during the post-closure care period;

2) A description of the planned maintenance activities and frequencies at which they will be performed to ensure the following:

A) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M, and ~~N-of this Part~~; and

B) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and ~~N-of this Part~~;

3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period;

4) For a facility subject to Section 725.221, provisions that satisfy the requirements of Section 725.221(a)(1) and (a)(3); and

5) For a facility where alternative requirements are established at a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided under 35 Ill. Adm. Code 703.161, either the alternative requirements that apply to the regulated unit, or a reference to the enforceable document containing those requirements.

d) Amendment of plan. The owner or operator may amend the post-closure care plan at any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure care plan must submit a written request to the Agency to authorize a change to the approved plan. The written request must include a copy of the amended post-closure care plan for approval by the Agency.

1) The owner or operator must amend the post-closure care plan whenever the following occur:

A) Changes in operating plans or facility design affect the post-closure care plan; or

B) Events occur during the active life of the facility, including partial and final closures, that affect the post-closure care plan; and

C) The owner or operator requests the establishment of alternative requirements to a regulated unit under Section 725.190(f), 725.210(d), or 725.240(d).

2) The owner or operator must amend the post-closure care plan at least 60 days prior to the proposed changes in facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the post-closure care plan.

3) An owner or operator with an approved post-closure care plan must submit the modified plan to the Agency at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred that has affected the post-closure care plan. If an owner or operator of a surface impoundment or a waste pile that intended to remove all hazardous wastes at closure in accordance with Section 725.328(b) or 725.358(a) is required to close as a landfill in accordance with Section 725.410, the owner or operator must submit a post-closure care plan within 90 days after the determination by the owner or operator or Agency that the unit must be closed as a landfill. If the amendment to the post-closure care plan is a Class 2 or 3 modification according to the criteria in 35 Ill.

Adm. Code 703.280, the modification to the plan must be approved according to the procedures in subsection (f) ~~of this Section~~.

4) The Agency may request modifications to the plan under the conditions described in subsection (d) (1) ~~of this Section~~. An owner or operator with an approved post-closure care plan must submit the modified plan no later than 60 days after the request from the Agency. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in 35 Ill. Adm. Code 703.280 the modifications to the post-closure care plan must be approved in accordance with the procedures in subsection (f) ~~of this Section~~. If the Agency determines that an owner or operator of a surface impoundment or waste pile that intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure care plan for approval to the Agency within 90 days after the determination.

e) The owner or operator of a facility with hazardous waste management units subject to these requirements must submit the post-closure care plan to the Agency at least 180 days before the date the owner or operator expects to begin partial or final closure of the first hazardous waste disposal unit. The date when the owner or operator "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the closure plan to the Agency no later than 15 days after either of the following:

1) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

2) Issuance of a judicial decree or Board order to cease receiving wastes or close.

f) Procedures.

1) Except as provided in subsection (f) (2) ~~of this Section~~, the Agency must provide the owner or operator and the public through a newspaper notice the opportunity to submit written comments on the post-closure care plan and request modifications to the plan, no later than 30 days after the date of the notice. The Agency may also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the post-closure care plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments and the two notices may be combined.) The Agency must approve, modify, or disapprove the plan within 90 days after

its receipt. If the Agency determines not to approve the plan, the Agency must provide the owner or operator with a detailed statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statements. The Agency must approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved post-closure care plan. Any final Agency determination must ensure that the approved post-closure care plan is consistent with Sections 725.217 through 725.220. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

2) The Agency must not provide notice or the opportunity for public comment if, in a prior proceeding, the Board has ordered the modifications to the plan.

g) The post-closure care plan and length of the post-closure care period may be modified at any time prior to the end of the post-closure care period in either of the following two ways:

1) The owner or operator or any member of the public may petition to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the post-closure care period based on cause.

A) The petition must include evidence demonstrating either of the following:

i) The secure nature of the hazardous waste management unit or facility makes the post-closure care requirements unnecessary or supports reduction of the post-closure care period specified in the current post-closure care plan (e.g., leachate or groundwater monitoring results; characteristics of the waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the facility is secure), or

ii) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

B) These petitions must be considered only when they present new and relevant information not previously considered.

i) Except as provided in subsection (g)(1)(B)(ii), whenever the Agency is considering a petition, it must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days after the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more

issues concerning the post-closure care plan. The Agency must give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments and the two notices may be combined.) After considering the comments, the Agency must issue a final determination, based upon the criteria set forth in subsection (g) (1) ~~of this Section~~.

ii) The Agency must not provide notice or the opportunity for public comment if, in a prior proceeding, the Board has ordered the modifications to the plan.

C) If the Agency denies the petition, it must send the petitioner a brief written response giving a reason for the denial.

2) The Agency must tentatively decide to modify the post-closure care plan if the Agency determines that it is necessary to prevent threats to human health and the environment. The Agency may propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the post-closure care period based on cause.

A) The Agency must provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days after the date of the notice and the opportunity for a public hearing as in subsection (g) (1) (B) ~~of this Section~~. After considering the comments, the Agency must issue a final determination.

B) The Agency must base its final determination upon the same criteria as required for petitions under subsection (g) (1) (A) ~~of this Section~~. A modification of the post-closure care plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Agency would then determine whether the requirements should be permanently discontinued or reinstated to prevent threats to human health and the environment.

h) The Agency procedures described in Sections 725.212 through 725.219 are in the nature of permit amendments. Amendment of refusal to amend the plan is a permit denial for purposes of appeal pursuant to 35 Ill. Adm. Code 105. The Agency must not amend permits in such a manner so that the permit would not conform with Board regulations.

i) If any person seeks a closure or post-closure care plan that would not conform with Board regulations, such person must file a site-specific rulemaking petition pursuant to 35 Ill. Adm. Code 102 or a variance petition pursuant to Sections 35 through 38 of the Act ~~[415-ILCS 5/35 through 38]~~ and Subpart B of 35 Ill. Adm. Code 104.

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

Section 725.219 Post-Closure Notices

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the County Recorder and to the Agency a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the County Recorder must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the site as specified in Section 725.217(c). In addition, the owner or operator must submit to the Agency and to the County Recorder a record of the type, location, and quantity of hazardous waste disposed of within each cell or area of the facility. The owner or operator must identify the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records the owner or operator has kept.

a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the County Recorder, to any local zoning authority, or any authority with jurisdiction over local land use, and to the Agency, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of the owner or operator's knowledge and in accordance with any records the owner or operator has kept.

b) Within 60 days after certification of closure of the first hazardous waste disposal unit and within 60 days after certification of closure of the last hazardous waste disposal unit, the owner or operator must do the following:

1) Record, in accordance with Illinois law, a notation on the deed to the facility property, or on some other instrument that is normally examined during title search, that will in perpetuity notify any potential purchaser of the property of the following:

A) The land has been used to manage hazardous wastes;

B) Its use is restricted pursuant to Subpart G ~~of this Part~~; and

C) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by Sections 725.216 and 725.219(a) have been filed with the County Recorder, any local zoning authority, or any authority with jurisdiction over local land use, and with the Agency; and

2) Submit to the Agency a certification signed by the owner or operator that the owner or operator has recorded the notation specified in subsection (b) (1) ~~of this Section~~, together with a copy of the document in which the notation has been placed.

c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues; the liner, if any; and all contaminated structures, equipment, and soils, such person must request a modification to the approved post-closure plan in accordance with the requirements of Section 725.218(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 725.217(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 702, 703, 720 through 728, and 738. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Agency approve either of the following:

1) Removal of the notation on the deed to the facility property or other instrument normally examined during title search, or

2) Addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

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

#### Section 725.221 Alternative Post-Closure Care Requirements

a) An owner or operator that is subject to the requirement to obtain a post-closure care permit under Subpart B of 35 Ill. Adm. Code 703 but which obtains an enforceable document in lieu of a post-closure permit, as provided in 35 Ill. Adm. Code 703.161, must comply with the following requirements:

1) The requirements to submit information about the facility in 35 Ill. Adm. Code 703.214;

2) The requirements for facility-wide corrective action in 35 Ill. Adm. Code 724.201; and

3) The requirements of 35 Ill. Adm. Code 724.191 through 724.200.

b) Implementation of Alternative Requirements.

1) Public notice, public comments, and public hearing.

A) In establishing alternative requirements in an enforceable document in lieu of a permit under this Section, the Board will assure a meaningful opportunity for public involvement that, at a minimum,

includes public notice and opportunity for public comment, as provided under the relevant provisions of the Act:

i) For a site-specific rulemaking, in Sections 27 and 28 of the Act—~~[415 ILCS 5/27 and 28]~~.

ii) For an adjusted standard, in Section 28.1 of the Act—~~[415 ILCS 5/28.1]~~.

iii) For a variance, in Sections 35 through 38 of the Act—~~[415 ILCS 5/35 through 38]~~.

iv) For an order issued pursuant to Section 33(a) of the Act—~~[415 ILCS 5/33(a)]~~, in Sections 31, 32, and 33 of the Act—~~[415 ILCS 5/31, 32, and 33]~~.

B) When an owner or operator submits a plan to the Agency pursuant to an appropriate statutory or regulatory authority, the Agency must provide public notice and an opportunity for public hearing on the plan according to the requirements of Subparts D and E of 35 Ill. Adm. Code 705 as follows:

i) When the Agency becomes involved in remedial action at the facility under regulations or in an enforcement action;

ii) On the proposed preferred remedy and on the assumptions on which the remedy is based, especially those relating to land use and site characterization; and

iii) At the time of a proposed decision that remedial action is complete at the facility.

C) The requirements of subsection (b)(1)(B) ~~of this Section~~ must be met before the Agency may consider that the facility owner or operator has met the requirements of 35 Ill. Adm. Code 703.161, unless the facility qualifies for a modification to these public participation requirements under either of subsection (b)(2) or (b)(3) ~~of this Section~~.

2) If the Agency determines that even a short delay in the implementation of a remedy would adversely affect human health or the environment, the Agency may delay compliance with the requirements of subsection (b)(1)(B) ~~of this Section~~ and immediately implement the remedy. However, the Agency must assure involvement of the public at the earliest opportunity and, in all cases, upon making the decision that additional remedial action is not needed at the facility.

3) The Agency may allow a remediation initiated prior to August 6, 1999 to substitute for corrective action required under a post-closure care permit ~~even if the public involvement requirements of subsection (b)(1)(B) of this Section have not been met, so long as the Agency assures that notice and comment on the decision that no further~~

~~remediation is necessary to adequately protect human health and the environment takes place at the earliest reasonable opportunity after August 6, 1999.~~

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

#### SUBPART H: FINANCIAL REQUIREMENTS

##### Section 725.240 Applicability

- a) The requirements of Sections 725.242, 725.243, and 725.247 through 725.250 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in Section 725.101.
- b) The requirements of Sections 725.244 and 725.245 apply only to owners and operators of any of the following:
  - 1) Disposal facilities;
  - 2) Tank systems that are required pursuant to Section 725.297 to meet the requirements for landfills; or
  - 3) Containment buildings that are required pursuant to Section 725.1102 to meet the requirements for landfills.
- c) States and the federal government are exempt from the requirements of this Subpart H.
- d) A permit or enforceable document can contain alternative requirements that replace all or part of the financial assurance requirements of this Subpart H applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the Board or Agency has done the following:
  - 1) The Board, by an adjusted standard granted pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104, has established alternative requirements for the regulated unit established pursuant to Section 725.190(f) or Section 724.210(d); and
  - 2) The Board has determined that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

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

##### Section 725.241 Definitions of Terms as Used in this Subpart H

- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 725.212.

b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b), and (c).

c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b), and (c).

d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.

f) The following terms are used in the specifications for the financial tests for closure, post-closure care, 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" mean all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" mean cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"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.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"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.

g) In the liability insurance requirements the terms "bodily injury" and "property damage" have the meanings given below. The Board 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.

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This term is used in the definition of "pollution incident-".

"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.

"Nonsudden accidental occurrence" means an occurrence that takes place over time and involves continuous or repeated exposure.

"Pollutant"~~"Pollutants"~~ means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of "pollution incident-".

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere, or any watercourse or

body of water, provided that such emission, discharge, release, or escape results in "environmental damage~~-~~". The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident~~-~~". "Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence~~-~~".

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of "property damage~~-~~".

"Property damage" means as follows:

Either of the following:

Physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a "pollution incident~~-~~".

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

"Sudden accidental occurrence" means an occurrence that is not continuous or repeated in nature.

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.

BOARD NOTE: Derived from 40 CFR 265.141(h) (2017)~~-(2014)~~ and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). 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]~~.

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

#### Section 725.242 Cost Estimate for Closure

- a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.
- 1) 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 its closure plan (see Section 725.212(b)); and
- 2) 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 that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
- 3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes, or non-hazardous wastes if permitted by the Agency pursuant to Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.
- 4) The owner or operator must not incorporate a zero cost for hazardous waste, or non-hazardous waste if permitted by the Agency pursuant to Section 725.213(d), that may have economic value.
- b) During the active life of the facility, the 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 Section 725.243. 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 firm's fiscal year and before submission of updated information to the Agency, as specified in Section 725.243(e)(5). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross National Product (Deflator), as published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (b)(1) and (b)(2) ~~of this Section~~. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

2) 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., "Implicit Price Deflators for Gross Domestic Product", 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](http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr).

c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan that increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised 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 (b) ~~of this Section~~.

d) The 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 (a) and (c) ~~of this Section~~, and, when this estimate has been adjusted in accordance with subsection (b) ~~of this Section~~, the latest adjusted closure cost estimate.

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

#### Section 725.243 Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. The owner or operator must choose from the options specified in subsections (a) through (e) ~~of this Section~~.

a) Closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251, and the trust agreement must be accompanied by a

formal certification of acknowledgment, as specified in 35 Ill. Adm. Code 724.251. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the ~~20 years beginning May 19, 1981, or over the~~ remaining operating life of the facility as estimated in the closure plan, ~~whichever period is shorter~~; this period is hereafter referred to as the "pay-in period.". The payments into the closure trust fund must be made as follows:

A) The first payment must be ~~made before May 19, 1981, except as provided in subsection (a)(5) of this Section. The first payment must be~~ at least equal to the current closure cost estimate, except as provided in subsection (f) ~~of this Section~~, divided by the number of years in the pay-in period.

B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

Next Payment =

Where:

CE = the current closure cost ~~estimate~~estimateCV= the current value of the trust ~~fund~~fundY= the number of years remaining in the pay-in period

4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. 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 subsection (a)(3) ~~of this Section~~.

5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) ~~of this Section~~.

6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.

7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.

8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) ~~of this Section~~, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (h) ~~of this Section~~, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator a detailed written statement of reasons.

11) The Agency must agree to termination of the trust when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

b) Surety bond guaranteeing payment into a closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as

acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

- 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
- 3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) ~~of this Section~~, except as follows:
  - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
  - B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
    - i) Payments into the trust fund, as specified in subsection (a);
    - ii) Updating of Schedule A of the trust agreement (see 35 Ill. Adm. Code 724.251(a)) to show current closure cost estimates;
    - iii) Annual valuations, as required by the trust agreement; and
    - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will:
  - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
  - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the Board or a court of competent jurisdiction; or
  - C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) ~~of this Section~~.

7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending 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.

9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance, as specified in this Section.

c) Closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) ~~of this Section~~, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and

B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

i) Payments into the trust fund, as specified in subsection (a) ~~of this Section~~;

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment as required by the trust agreement.

4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) ~~of this Section~~.

7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Agency may draw on the letter of credit.

9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

10) The Agency must return the letter of credit to the issuing institution for termination when one of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

d) Closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.

3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in subsection (f) ~~of this Section~~. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.

5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency.

The owner or operator may request reimbursement for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (h) ~~of this Section~~, that the owner or operator is no longer required to maintain financial assurance for final closure of the particular facility. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator as specified in subsection (d) (10) ~~of this Section~~. Failure to pay the premium, without substitution of alternate financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:

- A) The Agency deems the facility abandoned;
- B) Interim status is terminated or revoked;

C) Closure is ordered by the Board or a court of competent jurisdiction;

D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or

E) The premium due is paid.

9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

10) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

e) Financial test and corporate guarantee for closure.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this subsection. To pass this test the owner or operator must meet the criteria of either subsection (e) (1) (A) or (e) (1) (B) ~~of this Section~~:

A) The owner or operator must have all of the following:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current

closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

B) The owner or operator must have all of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

2) The phrase "current closure and post-closure cost estimates<sub>7</sub>", as used in subsection (e) (1) ~~of this Section~~, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrase "current plugging and abandonment cost estimates<sub>7</sub>", as used in subsection (e) (1) ~~of this Section~~, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).

3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, that no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.

4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.

5) After the initial submission of items specified in subsection (e)(3) ~~of this Section~~, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3) ~~of this Section~~.

6) If the owner or operator no longer meets the requirements of subsection (e)(1) ~~of this Section~~, the owner or operator must send notice to the Agency of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1) ~~of this Section~~, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3) ~~of this Section~~. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1) ~~of this Section~~, the owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (e)(3)(B) ~~of this Section~~). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of the disallowance.

9) The owner or operator is no longer required to submit the items specified in subsection (e)(3) ~~of this Section~~ when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate 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 (e)(1) through (e)(8)-of this Section, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm. Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e)(3)-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, the 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. The terms of the corporate guarantee must provide the following:

A) That, if the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a)-of this Section, in the name of the owner or operator.

B) That the corporate guarantee will remain in force unless the guarantor sends 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.

C) That, if the owner or operator fails to provide alternate financial assurance as specified in this Section and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in subsections (a) through (d)-of this Section, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a

letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, the USEPA identification number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to close all of the owner or operator's facilities. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

h) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and a qualified 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 the owner or operator is no longer required by this Section to maintain financial assurance for closure of the facility, unless the Agency determines that closure has not been in accordance with the approved closure plan. The Agency must provide the owner or operator a detailed written statement of any such determination that closure has not been in accordance with the approved closure plan.

i) Appeal. The following Agency actions are deemed to be permit modifications or refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code 702.184(e)(3)):

1) An increase in, or a refusal to decrease the amount of, a bond, letter of credit, or insurance; or

2) Requiring alternate assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

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

#### Section 725.244 Cost Estimate for Post-Closure Care

a) The owner or operator of a hazardous waste disposal unit must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance

with the applicable post-closure regulations in Section 725.217 through 725.220, 725.328, 725.358, 725.380, and 725.410.

1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See the definition of "parent corporation" in Section 725.241(d).)

2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Section 725.217.

b) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 30 days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with Section 725.245. 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 firm's fiscal year and before submission of updated information to the Agency as specified in Section 725.245(e)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars, or by using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business as specified in subsections (b)(1) and (b)(2) ~~of this Section~~. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the post-closure estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

c) During the active life of the facility, the owner or operator must revise the post-closure cost estimate whenever a change in the post-closure plan no later than 30 days after a revision to the post-closure plan that increases the cost of post-closure care. If the owner or operator has an approved post-closure plan, the post-closure cost estimate must be revised no later than 30 days after the Agency has approved the request to modify the plan if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in subsection (b) ~~of this Section~~.

d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest post-closure cost estimate prepared in accordance with subsections (a) and (c) ~~of this~~

~~Section~~ and, when this estimate has been adjusted in accordance with subsection (b) ~~of this Section~~, the latest adjusted post-closure cost estimate.

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

Section 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance

An owner or operator of a facility with a hazardous waste disposal unit must establish financial assurance for post-closure care of the disposal units. The owner or operator must choose from the following options:

a) Post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251 and the trust agreement must be accompanied by a formal certification of acknowledgment (as specified in 35 Ill. Adm. Code 724.251). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the ~~20 years beginning May 19, 1981, or over the~~ remaining operating life of the facility as estimated in the closure plan, ~~whichever period is shorter~~; this period is hereafter referred to as the "pay-in period.". The payments into the post-closure trust fund must be made as follows:

A) The first payment must ~~have been made before May 19, 1981, except as provided in subsection (a) (5) of this Section. The first payment must~~ be at least equal to the current post-closure cost estimate, except as provided in subsection (f) ~~of this Section~~, divided by the number of years in the pay-in period.

B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

Next Payment =

Where:

CE = the current closure cost estimate ~~CV~~ estimate CV = the current value of the trust fund Y - fund Y = the number of years remaining in the pay-in period

4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current post-closure cost estimate at the time the fund is established. 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 subsection (a) (3) ~~of this Section~~.

5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a) (3) ~~of this Section~~.

6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.

7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.

8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a) (7) or (a) (8) ~~of this Section~~, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) During the period of post-closure care, the Agency must approve a release of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.

11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care

expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

12) The Agency must agree to termination of a trust when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

b) Surety bond guaranteeing payment into a post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) ~~of this Section~~, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

i) Payments into the trust fund, as specified in subsection (a) ~~of this Section~~;

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current post-closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The bond must guarantee that the owner or operator will perform the following acts:

A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a court of competent jurisdiction; or

C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) ~~of this Section~~.

7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending 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.

9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance as specified in this Section.

c) Post-closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) ~~of this Section~~, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and

B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

i) Payments into the trust fund, as specified in subsection (a) ~~of this Section~~;

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.151) to show current post-closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least

one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) ~~of this Section~~.

7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other interim status requirements, the Agency may draw on the letter of credit.

10) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days after any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

d) Post-closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.

3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure estimate, except as provided in subsection (f) ~~of this Section~~. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency, to such party or parties as the Agency specifies.

5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing, if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (d) (11) ~~of this Section~~. Failure to pay the premium, without substitution of alternate financial assurance, as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:

- A) The Agency deems the facility abandoned;
- B) Interim status is terminated or revoked;
- C) Closure is ordered by the Board or a court of competent jurisdiction;
- D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
- E) The premium due is paid.

9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer must thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

11) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

e) Financial test and corporate guarantee for post-closure care.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (e). To pass this test the owner or operator must meet the criteria of either subsection (e) (1) (A) or (e) (1) (B) ~~of this Section~~:

A) The owner or operator must have each of the following:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the plugging and abandonment cost estimates.

B) The owner or operator must have each of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current

closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

2) The phrase "current closure and post-closure cost estimates~~7~~", as used in subsection (e) (1) ~~of this Section~~, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrases "current plugging and abandonment cost estimates~~7~~", as used in subsection (e) (1) ~~of this Section~~, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).

3) To demonstrate that it meets this test, the owner or operator must submit each of the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating both of the following:

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

4) This subsection (e) (4) corresponds with 40 CFR 265.143(e) (4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.

5) After the initial submission of items specified in subsection (e) (3) ~~of this Section~~, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e) (3) ~~of this Section~~.

6) If the owner or operator no longer meets the requirements of subsection (e) (1) ~~of this Section~~, the owner or operator must send notice to the Agency of intent to establish alternate financial assurance, as specified in this Section. The notice must be sent by

certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e) (1) ~~of this Section~~, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e) (3) ~~of this Section~~. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e) (1) ~~of this Section~~, the owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of such a finding.

8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (e) (3) (B) ~~of this Section~~). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of the disallowance.

9) During the period of post-closure care, the Agency must approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Agency that the amount of the cost estimate exceeds the remaining cost of post-closure care.

10) The owner or operator is no longer required to submit the items specified in subsection (e) (3) ~~of this Section~~ when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) ~~of this Section~~.

11) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate 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 (e) (1) through (e) (9) ~~of this Section~~, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm.

Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e) (3) ~~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, the 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. The terms of the corporate guarantee must provide as follows:

A) That, if the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) ~~of this Section~~, in the name of the owner or operator.

B) That the corporate guarantee will remain in force unless the guarantor sends 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.

C) That, if the owner or operator fails to provide alternate financial assurance, as specified in this Section, and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in subsections (a) through (d) ~~of this Section~~, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, it may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for post-closure care of the facility.

g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in this Section to meet the requirements of this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, the USEPA Identification

Number, name, address, and the amount of funds for post-closure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to provide post-closure care for all of the owner or operator's facilities. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

h) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that the post-closure care period has been completed in accordance with the approved post-closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain financial assurance for post-closure care of that unit, unless the Agency determines that post-closure care has not been in accordance with the approved plan. The Agency must provide the owner or operator a detailed written statement of any such determination that post-closure care has not been in accordance with the approved post-closure plan.

i) Appeal. The following Agency actions are deemed to be permit modifications or refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code 702.184(e)(3)):

1) An increase in, or a refusal to decrease the amount of, a bond, letter of credit, or insurance; or

2) Requiring alternate assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

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

#### Section 725.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal 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 subsections (a)(1) through (a)(6) ~~of this Section:~~

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (a)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement and of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) ~~of this Section~~.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) ~~of this Section~~.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) ~~of this Section~~.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) ~~of this Section~~.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (a)(6), the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever one of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (a) (1) through (a) (6) ~~of this Section~~;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-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 (a) (1) through (a) (6) ~~of this Section~~; or

C) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-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 (a) (1) through (a) (6) ~~of this Section~~.

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility that is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. An owner or operator that combines coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate. This liability coverage may be demonstrated, as specified in subsections (b) (1) through (b) (6) ~~of this Section~~:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b) (1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) ~~of this Section~~.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) ~~of this Section~~.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) ~~of this Section~~.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) ~~of this Section~~.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances pursuant to this subsection (b)(6), the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

7) An owner or operator must notify the Agency within 30 days whenever one of the following occurs:

A) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (b)(1) through (b)(6) ~~of this Section~~;

B) A Certification of Valid Claim for bodily injury or property damages caused by sudden or non-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 (b)(1) through (b)(6) ~~of this Section~~; or

C) A final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-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 (b) (1) through (b) (6) ~~of this Section~~.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsection ~~subsections~~ (a) or (b) ~~of this Section~~ are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted in writing to the Agency. If granted, the Agency's action must take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator that requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b) ~~of this Section~~. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code 703.271(e) (3) and 705.128. Notwithstanding any other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) ~~of this Section~~ are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required pursuant to subsection (a) or (b) ~~of this Section~~ as may be necessary to adequately protect human health and the environment. This adjusted level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) ~~of this Section~~. An owner or operator must furnish to the Agency, within a time specified by the Agency in the request, which must not be less than 30 days, any information that the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code 703.271(e) (3) and 705.128. Notwithstanding any

other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and a qualified 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 the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.

f) Financial test for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (f)(1). To pass this test the owner or operator must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) ~~of this Section~~:

A) The owner or operator must have each of the following:

i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;

ii) Tangible net worth of at least \$10 million; and

iii) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator must have each of the following:

i) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth of at least \$10 million;

iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either of the following: at least 90 percent of total assets or at least six times the amount of liability coverage to be demonstrated by this test.

2) The phrase "amount of liability coverage," as used in subsection (f)(1) ~~of this Section~~, refers to the annual aggregate amounts for which

coverage is required pursuant to subsections (a) and (b) ~~of this Section~~.

3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following three items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter, as specified in 35 Ill. Adm. Code 724.251 is not required.

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating as follows:

i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

5) After the initial submission of items specified in subsection (f)(3) ~~of this Section~~, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3) ~~of this Section~~.

6) If the owner or operator no longer meets the requirements of subsection (f)(1) ~~of this Section~~, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage, as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B) ~~of~~

~~this Section~~). An adverse opinion or a disclaimer of opinion is cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage, as specified in this Section, within 30 days after notification of disallowance.

g) Guarantee for liability coverage.

1) Subject to subsection (g)(2) ~~of this Section~~, an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "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 and operators in subsections (f)(1) through (f)(6) ~~of this Section~~. The wording of the guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3) ~~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. The terms of the guarantee must provide as follows:

A) If the 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 or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this 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.

B) The guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with Section 725.247 or 35 Ill. Adm. Code 724.247.

2) 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.

3) 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].

h) Letter of credit for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

4) An owner or operator that uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

5) The wording of the standby trust fund must be identical to the wording specified in 35 Ill. Adm. Code 724.251(n).

i) Surety bond for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

j) Trust fund for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance, as specified in this Section, to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code 724.251.

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

#### SUBPART I: USE AND MANAGEMENT OF CONTAINERS

##### Section 725.274 Inspections

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See Section 725.171 for remedial action required if deterioration or leaks are detected.

~~BOARD NOTE: See Section 725.271 for remedial action required if deterioration or leaks are detected.~~

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

#### SUBPART J: TANK SYSTEMS

##### Section 725.290 Applicability

The regulations of this Subpart J apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste, except as otherwise provided in subsection (a), (b), or (c) ~~of this Section~~ or in Section 725.101.

a) Tank systems that are used to store or treat hazardous waste that contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements in Section 725.293. To demonstrate the absence or presence of free liquids in the stored or treated waste, the following test must be used: USEPA Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods<sup>7</sup>", USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) Tank systems, including sumps, as defined in 35 Ill. Adm. Code 720.110, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Section 725.293(a).

c) Tanks, sumps, and other collection devices used in conjunction with drip pads, as defined in 35 Ill. Adm. Code 720.110 and regulated under Subpart W ~~of this Part~~, must meet the requirements of this Subpart J.

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

#### Section 725.291 Assessment of Existing Tank System Integrity

a) For each existing tank system that does not have secondary containment meeting the requirements of Section 725.293, the owner or operator must determine either that the tank system is not leaking or that it is unfit for use. Except as provided in subsection (c), the owner or operator must ~~after January 12, 1988,~~ obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d), that attests to the tank system's integrity.

b) This assessment must determine whether the tank system is adequately designed and has sufficient structural strength and compatibility with the wastes to be stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

1) Design standards, if available, according to which the tank and ancillary equipment were constructed;

2) Hazardous characteristics of the wastes that have been or will be handled;

- 3) Existing corrosion protection measures;
- 4) Documented age of the tank system, if available, (otherwise, an estimate of the age); and
- 5) Results of a leak test, internal inspection, or other tank integrity examination, such that the following conditions are met:
  - A) For non-enterable underground tanks, this assessment must consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pocket, and high water table effects.
  - B) For other than non-enterable underground tanks and for ancillary equipment, this assessment must be either a leak test, as described above, or an internal inspection or other tank integrity examination certified by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d), that addresses cracks, leaks, corrosion, and erosion.

BOARD NOTE: The practices described in the American Petroleum Institute (API) Publication, "Guide for Inspection of Refinery Equipment~~7~~", Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks~~7~~", incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in conducting the integrity examination of an other than non-enterable underground tank system.

- c) Tank systems that store or treat materials that become hazardous wastes ~~subsequent to July 14, 1986~~ must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.
- d) If, as a result of the assessment conducted in accordance with subsection (a) ~~of this Section~~, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Sections 725.296.

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

#### Section 725.292 Design and Installation of New Tank Systems or Components

- a) An owner or operator of a new tank system or component must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d), attesting that the system has sufficient structural integrity and is acceptable

for the storing and treating of hazardous waste. This assessment must include the following information:

- 1) Design standards according to which the tanks and ancillary equipment is or will be constructed.
- 2) Hazardous characteristics of the wastes to be handled.
- 3) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of the following:
  - A) Factors affecting the potential for corrosion, including but not limited to the following:
    - i) Soil moisture content;
    - ii) Soil pH;
    - iii) Soil sulfides level;
    - iv) Soil resistivity;
    - v) Structure to soil potential;
    - vi) Influence of nearby underground metal structures (e.g., piping);
    - vii) Stray electric current;
    - viii) Existing corrosion-protection measures (e.g., coating, cathodic protection, etc.); and
  - B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:
    - i) Corrosion-resistant materials of construction such as special alloys, or fiberglass-reinforced plastic;
    - ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and
    - iii) Electrical isolation devices such as insulating joints and flanges, etc.

BOARD NOTE: The practices described in the National Association of Corrosion Engineers (NACE) Standard, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", NACE Recommended Practice RP0285, and "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", API Recommended Practice 1632, each incorporated by reference in 35 Ill.

Adm. Code 720.111(a), may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

- 4) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and
- 5) Design considerations to ensure the following:
  - A) Tank foundations will maintain the load of a full tank;
  - B) Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone; and
  - C) Tank systems will withstand the effects of frost heave.
- b) The owner and operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing or placing a new tank system or component in use, an independent, qualified installation inspector or a qualified Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system or component for the presence of any of the following items:
  - 1) Weld breaks;
  - 2) Punctures;
  - 3) Scrapes of protective coatings;
  - 4) Cracks;
  - 5) Corrosion; and
  - 6) Other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.
- c) New tank systems or components and piping that are placed underground and which are backfilled must be provided with a backfill material that is a noncorrosive, porous, and homogeneous substance which is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.
- d) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leaks in the system must be performed prior to the tank system being covered, enclosed, or placed in use.

e) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

BOARD NOTE: The piping system installation procedures described in "Installation of Underground Petroleum Storage Systems", API Recommended Practice 1615, or "Chemical Plant and Petroleum Refinery Piping", ASME/ANSI Standard B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used where applicable, as guidelines for proper installation of piping systems.

f) The owner and operator must provide the type and degree of corrosion protection necessary, based on the information provided under subsection (a)(3) ~~of this Section~~, to ensure the integrity of the tank system during use of the tanks system. An independent corrosion expert must supervise the installation of a corrosion protection system that is field fabricated to ensure proper installation.

g) The owner and operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of subsections (b) through (f) ~~of this Section~~ to attest that the tank system was properly designed and installed and that repairs, pursuant to subsections (b) and (d) ~~of this Section~~ were performed. These written statements must also include the certification statement, as required in 35 Ill. Adm. Code 702.126(d).

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

#### Section 725.293 Containment and Detection of Releases

a) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in subsections (f) and (g) ~~of this Section~~).

1) For a new or existing tank system or component, prior to its being put into service.

2) For a tank system that stores or treats materials that become hazardous wastes, within two years ~~of~~ after the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

b) Secondary containment systems must be as follows:

1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

c) To meet the requirements of subsection (b) ~~of this Section~~, secondary containment systems must be at a minimum as follows:

1) Constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;

3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;

4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through 728. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR 302.6.

d) Secondary containment for tanks must include one or more of the following devices:

- 1) A liner (external to the tank);
- 2) A vault;
- 3) A double-walled tank; or
- 4) An equivalent device as approved by the Board in an adjusted standards proceeding.

e) In addition to the requirements of subsections (b), (c), and (d), secondary containment systems must satisfy the following requirements:

- 1) External liner systems must be as follows:
  - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the liner system's boundary;
  - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
  - C) Free of cracks or gaps; and
  - D) Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tanks (i.e., capable of preventing lateral as well as vertical migration of the waste).
- 2) Vault systems must be as follows:
  - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
  - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
  - C) Constructed with chemical-resistant water stops in place at all joints (if any);
  - D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or

ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and

F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) Double-walled tanks must be as follows:

A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;

B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

BOARD NOTE: The provisions outlined in the Steel Tank Institute (STI) document "Standard for Dual Wall Underground Steel Storage Tanks", incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used as guidelines for aspects of the design of underground steel double-walled tanks.

f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (c) and (h) ~~of this Section~~, except for the following:

1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices,

loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

g) Pursuant to Section 28.1 of the Environmental Protection Act ~~[415-ILCS-5/28.1]~~, and in accordance with Subpart D of 35 Ill. Adm. Code 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g) (2) ~~of this Section.~~

1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

- A) The nature and quantity of the waste;
- B) The proposed alternate design and operation;
- C) The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and
- D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

2) In deciding whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

A) The potential adverse effects on groundwater, surface water, and land quality taking the following into account:

i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

ii) The hydrogeological characteristics of the facility and surrounding land;

iii) The potential for health risks caused by human exposure to waste constituents;

- iv) The potential for damage to wildlife; crops, vegetation, and physical structures caused by exposure to waste constituents; and
  - v) The persistence and permanence of the potential adverse effects;
- B) The potential adverse effects of a release on groundwater quality, taking the following into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
  - ii) The proximity and withdrawal rates of water in the area;
  - iii) The current and future uses of groundwater in the area; and
  - iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;
- C) The potential adverse effects of a release on surface water quality, taking the following into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
  - ii) The patterns of rainfall in the region;
  - iii) The proximity of the tank system to surface waters;
  - iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and
  - v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and
- D) The potential adverse effects of a release on the land surrounding the tank system, taking the following into account:
- i) The patterns of rainfall in the region; and
  - ii) The current and future uses of the surrounding land.
- 3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g) (1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must fulfill the following requirements:
- A) It must comply with the requirements of Section 725.296, except Section 725.296(d); and

B) It must decontaminate or remove contaminated soil to the extent necessary to assure the following:

i) It must enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.

C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), it must comply with the requirements of Section 725.297(b).

4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) ~~of this Section~~, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, must fulfill the following requirements:

A) It must comply with the requirements of Section 725.296(a), (b), (c), and (d); and

B) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 725.297(b);

C) If repairing, replacing, or reinstalling the tank system, it must provide secondary containment in accordance with the requirements of subsections (a) through (f) ~~of this Section~~, or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the requirements for new tank systems in Section 725.292 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil is decontaminated or removed, and groundwater or surface water has not been contaminated.

h) In order to make an alternative design and operating practices demonstration, the owner or operator must follow the following procedures, in addition to those specified in Section 28.1 of the Act ~~{415 ILCS 5/28.1}~~ and Subpart D of 35 Ill. Adm. Code 104:

1) The owner or operator must file a petition for approval of alternative design and operating practices according to the following schedule:

A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a) ~~of this Section~~; and

B) For new tank systems, at least 30 days prior to entering into a contract for installation of the tank system.

2) As part of the petition, the owner or operator must also submit the following to the Board:

A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g) (1) or (g) (2) ~~of this Section~~; and

B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.

4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.

i) All tank systems, until such time as secondary containment meeting the requirements of this Section is provided, must comply with the following:

1) For non-enterable underground tanks, a leak test that meets the requirements of Section 725.291(b) (5) must be conducted at least annually.

2) For other than non-enterable underground tanks and for all ancillary equipment, the owner or operator must either conduct a leak test, as described in subsection (i) (1) ~~of this Section~~, or an internal inspection or other tank integrity examination, by a qualified Professional Engineer, that addresses cracks, leaks, and corrosion or erosion at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

BOARD NOTE: The practices described in API Publication "Guide for Inspection of Refinery Equipment<sub>T</sub>", Chapter XIII, "Atmospheric and Low Pressure Storage Tanks<sub>T</sub>", incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, when applicable, as guidelines for assessing the overall condition of the tank system.

3) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) ~~of this Section~~.

4) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3) ~~of this Section~~, the owner or operator must comply with the requirements of Section 725.296.

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

#### Section 725.295 Inspections

a) The owner or operator must inspect the following, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.

b) Except as noted under subsection (c) ~~of this Section~~, the owner or operator must inspect the following at least once each operating day:

1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.).

BOARD NOTE: Section 725.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 725.296 requires the owner or operator to notify the Agency within 24 hours of confirming a release. Also, federal 40 CFR 302 may require the owner or operator to notify the National Response Center of a release.

c) The owner or operator of a tank system that either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly those areas described in subsections (b)(1) through (b)(3) ~~of this Section~~. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

d) This subsection (d) corresponds with 40 CFR 265.195(d), which USEPA has removed and marked "reserved". ~~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, 12992, note 1 (Mar. 18, 2010).~~ This statement maintains structural consistency with the corresponding federal requirements.

e) Ancillary equipment that is not provided with secondary containment, as described in Section 725.293(f)(1) through (f)(4), must be inspected at least once each operating day.

f) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

2) All sources of impressed current must be inspected or tested, as appropriate, at least every other month.

BOARD NOTE: The practices described in "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", NACE Recommended Practice RP0285-85, or "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", API Recommended Practice 1632, each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

g) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (a) and (b) ~~of this Section.~~

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

#### Section 725.296 Response to Leaks or Spills and Disposition of Tank Systems

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately. The owner or operator must satisfy the following requirements:

a) Cease using; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

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

1) If the release was from the tank system, the owner or operator must, within 24 hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

2) If the release was to a secondary containment system, all released materials must be removed within 24 hours to prevent harm to human health and the environment.

c) Containment of visible releases to the environment. The owner or operator must immediately conduct a visual inspection of the release and, based upon that inspection, do the following:

1) Prevent further migration of the leak or spill to soils or surface water; and

2) Remove and properly dispose of any visible contamination of the soil or surface water.

d) Notifications; reports.

1) Any release to the environment, except as provided in subsection (d)(2) ~~of this Section~~, must be reported to the Agency within 24 hours after detection.

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

A) The spill is less than or equal to a quantity of one pound (~~2-20.45~~ kg); and

B) The spill is immediately contained and cleaned-up.

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

A) Likely route of migration of the release;

B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);

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

D) Proximity to downgradient drinking water, surface water, and population areas; and

- E) Description of response actions taken or planned.
- e) Provision of secondary containment, repair, or closure.
- 1) Unless the owner or operator satisfies the requirements of subsections (e) (2) through (e) (4) ~~of this Section~~, the tank system must be closed in accordance with Section 725.297.
  - 2) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.
  - 3) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.
  - 4) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner or operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 725.293 before it is returned to service, unless the source of the leak is an aboveground portion of a tank system. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (f) ~~of this Section~~ are satisfied. If a component is replaced to comply with the requirements of this subsection (e) (4), that component must satisfy the requirements for new tank systems or components in Sections 725.292 and 725.293. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with Section 725.293 prior to being returned to use.
- f) Certification of major repairs. If the owner or operator has repaired a tank system in accordance with subsection (e) ~~of this Section~~, and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel, etc.), the tank system must not be returned to service unless the owner or operator has obtained a certification by a qualified Professional Engineer, in accordance with 35 Ill. Adm. Code 702.126(d), that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be placed in the operating record and maintained until closure of the facility.

BOARD NOTE: See Section 725.115(c) for the requirements necessary to remedy a failure. Also, federal 40 CFR 302.6 requires the owner or operator to notify the National Response Center of a release of any "reportable quantity-".

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective  
~~\_\_\_\_\_~~)

Section 725.297 Closure and Post-Closure Care

a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils and structures and equipment contaminated with waste, and manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in Subparts G and H ~~of this Part~~.

b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (a) ~~of this Section~~, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (Section 725.410). In addition, for the purposes of closure, post-closure and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements of landfills specified in Subparts G and H ~~of this Part~~.

c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of Section 725.293(b) through (f), and which is not exempt from the secondary containment requirements in accordance with Section 725.293(g), then the following requirements apply:

1) The closure plan for the tank system must include both a plan for complying with subsection (a) ~~of this Section~~, and a contingent plan for complying with subsection (b) ~~of this Section~~;

2) A contingent post-closure plan for complying with subsection (b) ~~of this Section~~ must be prepared and submitted as part of the permit application;

3) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if these costs are greater than the costs of complying with the closure plan prepared for the expected closure under subsection (a) ~~of this Section~~;

4) Financial assurance must be based on the cost estimates in subsection (c) (3) ~~of this Section~~; and

5) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure care, and financial

responsibility requirements for landfills under Subparts G and H ~~of this Part.~~

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

Section 725.298 Special Requirements for Ignitable or Reactive Wastes

- a) Ignitable or reactive waste must not be placed in a tank system, unless either of the following conditions is fulfilled:
- 1) The waste is treated, rendered or mixed before or immediately after placement in the tank system so that the following two conditions are fulfilled:
    - A) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123; and
    - B) Section 725.117(b) is complied with;
  - 2) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
  - 3) The tank system is used solely for emergencies.
- b) The owner or operator of a facility where ignitable or reactive waste is stored or tested in tanks must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code", NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

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

Section 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month (Repealed)

- ~~a) The requirements of this Section apply to small quantity generators that generate more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and that do not accumulate over 6,000 kg on site at any time.~~
- ~~b) A generator of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:~~
- ~~1) Treatment or storage of hazardous waste in tanks must comply with Section 725.117(b);~~

2) ~~Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;~~

3) ~~Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and~~

4) ~~Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by pass system to a stand by tank).~~

~~BOARD NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).~~

e) ~~Except as noted in subsection (d) of this Section, a generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect the following, where present:~~

1) ~~Discharge control equipment (e.g., waste feed cutoff systems, by pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;~~

2) ~~Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;~~

3) ~~The level of waste in the tank at least once each operating day to ensure compliance with subsection (b) (3) of this Section;~~

4) ~~The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and~~

5) ~~The construction materials of and the area immediately surrounding discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).~~

~~BOARD NOTE: As required by Section 725.115(e), the owner or operator must remedy any deterioration or malfunction the owner or operator finds.~~

d) ~~A generator that accumulates between 100 and 1,000 kg/mo of hazardous waste in tanks or tank systems which have full secondary containment and which either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly, where applicable, the areas identified in subsections (e) (1) through (e) (5) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.~~

e) ~~This subsection (e) corresponds with 40 CFR 265.201(e), 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, 12992, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.~~

f) ~~A generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous~~

~~waste from tanks, discharge control equipment, and discharge confinement structures.~~

~~BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(d) or (e), that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 725.~~

~~g) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for ignitable or reactive waste:~~

~~1) Ignitable or reactive waste must not be placed in a tank unless one of the following conditions are fulfilled:~~

~~A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the following is true of the waste:~~

~~i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123, and~~

~~ii) Section 725.117(b) is complied with;~~

~~B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or~~

~~C) The tank is used solely for emergencies.~~

~~2) The owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).~~

~~h) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:~~

~~1) Incompatible wastes or incompatible wastes and materials (see appendix V of 40 CFR 265 (Examples of Potentially Incompatible Waste), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) must not be placed in the same tank unless Section 725.117(b) is complied with.~~

~~2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material unless Section 725.117(b) is complied with.~~



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

SUBPART K: SURFACE IMPOUNDMENTS

Section 725.321 Design and Operating Requirements

a) The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with 35 Ill. Adm. Code 724.321(c), unless exempted under 35 Ill. Adm. Code 724.321(d), (e), or (f).

b) The owner or operator of each unit referred to in subsection (a) ~~of this Section~~ must notify the Agency at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

c) The owner or operator of any replacement surface impoundment unit is exempt from subsection (a) ~~of this Section~~ if the following conditions are fulfilled:

1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.321(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of RCRA ~~the Resource Conservation and Recovery Act~~ (42 USC 6924(o)(1)(A)(i) and (o)(5)).

2) There is no reason to believe that the liner is not functioning as designed.

d) The Agency must not require a double liner as set forth in subsection (a) ~~of this Section~~ for any monofill, if the following conditions are fulfilled:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA hazardous waste numbers D004 through D017; and

2) No migration demonstration.

A) Design and location requirements.

i) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this subsection (d)(2)(A)(i) the term "liner" means a liner designed, constructed,

installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment that has been exempted from the requirements of subsection (a) ~~of this Section~~, of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment must comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

ii) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a) ~~of this Section~~, and in good faith compliance with subsection (a) ~~of this Section~~ and with guidance documents governing liners and leachate collection systems under subsection (a) ~~of this Section~~, the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) ~~of this Section~~ when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) ~~of this Section~~ is leaking.

f) A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. Except as provided in subsection (g) ~~of this Section~~, there must be at least 60 centimeters (two feet) of freeboard.

g) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of the engineer's knowledge and opinion, prevent overtopping of the dike. The certification, along with a written identification of alternate design features or operating plans preventing overtopping, must be maintained at the facility.

BOARD NOTE: Any point source discharge from a surface impoundment to waters of the State is subject to the requirements of Section 12 of the Environmental Protection Act ~~[415 ILCS 5/12]~~. Spills may be subject to Section 311 of the Clean Water Act (33 USC 1321).

h) Surface impoundments that are newly subject to this Part due to the promulgation of additional listings or characteristics for the identification of hazardous waste must be in compliance with subsections (a), (c), or (d) ~~of this Section~~ not later than 48 months after the promulgation of the additional listing or characteristic. This compliance period must not be cut short as the result of the promulgation of land disposal prohibitions under 35 Ill. Adm. Code 728 or the granting of an extension to the effective date of a prohibition pursuant to 35 Ill. Adm. Code 728.105, within this 48 month period.

i) Refusal to grant an exemption or waiver, or grant with conditions, may be appealed to the Board.

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

#### Section 725.322 Action Leakage Rate

a) The owner or operator of surface impoundment units subject to Section 725.321(a) must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.321(b). Within 60 days of receipt of the notification, the Agency must do either of the following: establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

b) The Agency must approve an action leakage rate for surface impoundment units subject to Section 725.321(a). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; the likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).

c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under Section 725.326(b) to an average daily

flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period and, if the unit is closed in accordance with Section 725.328(a)(2), monthly during the post-closure care period, unless the Agency approves a different frequency pursuant to Section 725.326(b).

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

#### Section 725.324 Response Actions

a) The owner or operator of surface impoundment units subject to Section 725.321(a) must develop and keep on site a response action plan. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) ~~of this Section~~.

b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do the following:

1) Notify the Agency in writing of the exceedance within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days of the determination, as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) ~~of this Section~~, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b) (3) through (b) (5) ~~of this Section~~, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

#### Section 725.325 Waste Analysis and Trial Tests

In addition to the waste analyses required by Section 725.113, whenever a surface impoundment is to be used for either of the purposes in subsections (a) and (b) ~~of this Section~~, the owner or operator must, before treating the different waste or using the different process, perform either of the required actions listed in subsection (c) ~~of this Section~~:

a) Chemically treat a hazardous waste that is substantially different from waste previously treated in that impoundment; or

b) Chemically treat hazardous waste with a substantially different process than and previously used in that impoundment.

c) Required actions.

1) The owner or operator must conduct waste analyses and trial treatment tests (e.g., bench scale or pilot plant scale tests); or

2) The owner or operator must obtain written, documented information on similar treatment of similar waste under similar operating conditions, to show that this treatment will comply with Section 725.117(b).

BOARD NOTE: As required by Section 725.113, the waste analyses plan must include analyses needed to comply with Sections 725.329 and 725.330. As required by Section 725.173, the owner or operator must

place the results from each waste analysis and trial test, or the documented information in the operating record of the facility.

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

#### Section 725.326 Monitoring and Inspections

a) The owner or operator must inspect:

1) The freeboard level at least once each operating day to ensure compliance with Section 725.322; and

2) The surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration, or failures in the impoundment.

BOARD NOTE: As required by Section 725.115(c), the owner or operator must remedy any deterioration or malfunction the owner or operator finds.

b) LDS.

1) An owner or operator required to have a LDS under Section 725.321(a) must record the amount of liquids removed from each LDS sump at least once each week during the active life and closure period.

2) After the final cover is installed, the amount of liquids removed from each LDS sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the Agency based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with Section 725.322(a).

c) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.



- 3) Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of Subpart F of this Part; and
- 4) Prevent run-on and run-off from eroding or damaging the final cover.

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

#### SUBPART L: WASTE PILES

##### Section 725.350 Applicability

The regulations in this Subpart L apply to owners and operators of facilities that treat or store hazardous waste in piles, except as Section 725.101 provides otherwise. Alternatively, a pile of hazardous waste may be managed as a landfill under Subpart N ~~of this Part~~.

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

##### Section 725.353 Containment

If leachate or run-off from a pile is a hazardous waste, then control of the leachate or runoff must be accomplished by either of the following means:

- a) Control by pile design, construction, and operation.
  - 1) The pile must be placed on an impermeable base that is compatible with the waste under the conditions of treatment or storage;
  - 2) The owner or operator must design, construct, operate and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm;
  - 3) The owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm; and
  - 4) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously to maintain design capacity of the system; or
- b) Alternative control.
  - 1) The pile must be protected from precipitation and runoff by some other means; and
  - 2) No liquids or wastes containing free liquids may be placed in the pile.

BOARD NOTE: If collected leachate or runoff is discharged through a point source to waters of the United States, it is subject to the requirements of Section 12 of the Illinois Environmental Protection Act-~~[415 ILCS 5/12]~~.

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

#### Section 725.354 Design and Operating Requirements

The owner or operator of each new waste pile on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each such replacement of an existing waste pile unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners and operate the leachate collection and removal systems, in accordance with 35 Ill. Adm. Code 724.351(c), unless exempted under 35 Ill. Adm. Code 724.351(d), (e) or (f); and must comply with the procedures of Section 725.321(b). "Construction commences" is as defined in 35 Ill. Adm. Code 720.110 under "existing facility-". The owner or operator of each unit referred to in this Section must notify the Agency at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months after the receipt of such notice.

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

#### Section 725.355 Action Leakage Rates

a) The owner or operator of waste pile units subject to Section 725.354 must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.354. Within 60 days after receipt of the notification, the Agency must either establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or it must extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review period, the action leakage rate must be approved as proposed by the owner or operator.

b) The Agency must approve an action leakage rate for waste pile units subject to Section 725.354. The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; the likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the

system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).

c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under Section 725.360, to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

#### Section 725.358 Closure and Post-Closure Care

a) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate and manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies; or

b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment, as required in subsection (a) ~~of this Section~~, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, it must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (Section 725.410).

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

#### Section 725.359 Response Actions

a) The owner or operator of waste pile units subject to Section 725.354 must submit a response action plan to the Agency when submitting the proposed action leakage rate under Section 725.355. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) ~~of this Section~~.

b) If the flow rate into the leak determination system exceeds the action leakage rate for any sump, the owner or operator must do the following:

- 1) Notify the Agency in writing of the exceedance within seven days after the determination;
  - 2) Submit a preliminary written assessment to the Agency within 14 days after the determination as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;
  - 3) Determine to the extent practicable the location, size, and cause of any leak;
  - 4) Determine whether waste receipts should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;
  - 5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and
  - 6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b) (3) through (b) (5) ~~of this Section~~, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.
- c) To make the leak or remediation determinations in subsections (b) (3) through (b) (5) ~~of this Section~~, the owner or operator must do either of the following:
    - 1) Perform the following assessments:
      - A) Assess the source of liquids and amounts of liquids by source;
      - B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
      - C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or
    - 2) Document why such assessments are not needed.
  - d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

SUBPART M: LAND TREATMENT

Section 725.376 Food Chain Crops

a) This subsection (a) corresponds with 40 CFR 265.276(a), which required notification of activity before a date long past. This statement maintains structural consistency with the corresponding federal rules. ~~An owner or operator of a hazardous waste land treatment facility on which food chain crops are being grown, or have been grown and will be grown in the future, must have notified the Agency by July 16, 1982.~~

BOARD NOTE: Growing food chain crops at a facility that has never before been used for this purpose is a significant change in process under 35 Ill. Adm. Code 703.155. The owner or operator of such a land treatment facility that proposes to grow food chain crops after May 17, 1982 must have submitted a new or revised Part A permit application.

b) Limitation relating to arsenic, lead, mercury, and other constituents.

1) Food chain crops must not be grown on the treated area of a hazardous waste land treatment facility, unless the owner or operator can demonstrate, based on field testing, that either of the following is true of any arsenic, lead, mercury, or other constituents identified under Section 725.373 (b):

A) They will not be transferred to the food portion of the crop by plant uptake or direct contact and will not otherwise be ingested by food chain animals (e.g., by grazing); or

B) They will not occur in greater concentrations in the crops grown on the land treatment facility than in the same crops grown on untreated soils under similar conditions in the same region.

2) The information necessary to make the demonstration required by subsection (b)(1) ~~of this Section~~ must be kept at the facility and must, at a minimum, fulfill the following conditions:

A) It must be based on tests for the specific waste and application rates being used at the facility; and

B) It must include descriptions of crop and soil characteristics, sample selection, criteria, sample size determination, analytical methods, and statistical procedures.

c) Limitation relating to cadmium. Food chain crops must not be grown on a land treatment facility receiving waste that contains cadmium unless all requirements of subsections (c)(1)(A) through (c)(1)(C) ~~of this Section~~ or all requirements of subsection (c)(2)(A) through (c)(2)(D) ~~of this Section~~ are met.

1) Cadmium limitation for crops for human consumption. Application of waste must comply with all of the following conditions:

A) The pH of the waste and soil mixture is 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

B) The annual application of cadmium from waste does not exceed 0.5 ~~kilograms per hectare~~ (kg/ha) (0.45 lb/acre) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops the annual cadmium application rate does not exceed 0.5 kg/ha (0.45 lb/acre). ~~the following:~~

~~ANNUAL CADMIUM APPLICATION RATE~~

~~(kilograms per hectare)~~

~~Present to June 30, 1984 2.0~~

~~July 1, 1984 to December 31, 1986 1.25~~

~~Beginning January 1, 1987 0.5~~

C) The cumulative application of cadmium from waste does not exceed the levels in either subsection (c) (1) (C) (i) or (c) (1) (C) (ii) ~~of this Section.~~

i) Maximum cumulative application of cadmium.

MAXIMUM CUMULATIVE APPLICATION  
OF CADMIUM

(kilograms per hectare)

FOR BACKGROUND SOIL pH LESS THAN 6.5 Soil cation exchange capacity  
(milliequivalents per 100 grams) Less than 5 ~~55555~~ to ~~155155~~ Greater than  
~~15 5155~~

FOR BACKGROUND SOIL pH GREATER THAN 6.5 Soil cation exchange capacity  
(milliequivalents per 100 grams) Less than 5 ~~55555~~ to ~~15101510~~ Greater  
than ~~15 201520~~

ii) For soils with a background pH of less than 6.5, the cumulative cadmium application rate does not exceed the levels below (provided, that the pH of the waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown):

MAXIMUM CUMULATIVE APPLICATION  
OF CADMIUM

(kilograms per hectare) FOR BACKGROUND SOIL pH LESS THAN 6.5

WITH pH ~~ADJUSTMENTS~~ Soil Cation ~~ADJUSTMENTS~~ Soil cation exchange capacity  
(milliequivalents per 100 grams) Less than 5 ~~55555~~ to ~~15101510~~ Greater  
than ~~15 201520~~

2) Cadmium limitation for crops for animal feed. Application of waste must comply with all of the following conditions:

A) The only food chain crop produced is animal feed;

B) The pH of the waste and soil mixture is 6.5 or greater at the time of waste application or at the time the crop is planted, whichever

occurs later and this pH level is maintained whenever food chain crops are grown;

C) There is a facility operating plan that demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain that may result from alternative land uses; and

D) Future property owners are notified by a stipulation in the land record or property deed that states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with subsection (c)(2) ~~of this Section~~.

BOARD NOTE: As required by Section 725.173, if an owner or operator grows food chain crops on his land treatment facility, he must place the information developed in this Section in the operating record of the facility.

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

#### Section 725.378 Unsaturated Zone (Zone of Aeration) Monitoring

a) The owner or operator must have in writing, and must implement, an unsaturated zone monitoring plan that is designed to accomplish the following:

1) It must detect the vertical migration of hazardous waste and hazardous waste constituents under the active portion of the land treatment facility, and

2) It must provide information on the background concentrations of the hazardous waste and hazardous waste constituents in similar but untreated soil nearby. This background monitoring must be conducted before or in conjunction with the monitoring required under subsection (a)(1) ~~of this Section~~.

b) The unsaturated zone monitoring plan must include, at a minimum, both of the following:

1) Soil monitoring using soil cores, and

2) Soil-pore water monitoring using devices, such as lysimeters.

c) To comply with subsection (a)(1) ~~of this Section~~, the owner or operator must demonstrate in his unsaturated zone monitoring plan that ensures the following:

1) The depth at which soil and soil-pore water samples are to be taken is below the depth to which the waste is incorporated into the soil;

2) The number of soil and soil-pore water samples to be taken is based on the variability of the following:

A) The hazardous waste constituents (as identified in Section 725.373(a) and(b)) in the waste and in the soil, and

B) The soil types; and

3) The frequency and timing of soil and soil-pore water sampling is based on the frequency, time, and rate of waste application, proximity to ground water, and soil permeability.

d) The owner or operator must keep at the facility its unsaturated zone monitoring plan and the rationale used in developing this plan.

e) The owner or operator must analyze the soil and soil-pore water samples for the hazardous waste constituents that were found in the waste during the waste analysis under Section 725.373(a) and (b).

BOARD NOTE: As required by Section 725.173, the owner or operator must place all data and information developed under this Section in the operating record of the facility.

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

#### Section 725.380 Closure and Post-Closure Care

a) In the closure plan under Section 725.212 and the post-closure plan under Section 725.218 the owner or operator must address the following objectives and indicate how they will be achieved:

1) Control of the migration of hazardous waste and hazardous waste constituents from the treated area into the groundwater;

2) Control of the release of contaminated runoff from the facility into surface water;

3) Control of the release of airborne particulate contaminants caused by wind erosion; and

4) Compliance with Section 725.376 concerning the growth of food-chain crops.

b) The owner or operator must consider at least the following factors in addressing the closure and post-closure care objectives of subsection (a) ~~of this Section~~:

1) The type and amount of hazardous waste and hazardous waste constituents applied to the land treatment facility;

- 2) The mobility and the expected rate of migration of the hazardous waste and hazardous waste constituents;
  - 3) The site location, topography, and surrounding land use with respect to the potential effects of pollutant migration (e.g., proximity to groundwater, surface water, and drinking water sources);
  - 4) Climate, including amount, frequency, and pH of precipitation;
  - 5) Geological and soil profiles and surface and subsurface hydrology of the site and soil characteristics, including cation exchange capacity, total organic carbon, and pH;
  - 6) Unsaturated zone monitoring information obtained under Section 725.378; and
  - 7) The type, concentration, and depth of migration of hazardous waste constituents in the soil, as compared to their background concentrations.
- c) The owner or operator must consider at least the following methods in addressing the closure and post-closure care objectives of subsection (a) ~~of this Section~~:
- 1) Removal of contaminated soils;
  - 2) Placement of a final cover, considering the following:
    - A) Functions of the cover (e.g., infiltration control, erosion and runoff control, and wind erosion control); and
    - B) Characteristics of the cover, including material, final surface contours, thickness, porosity and permeability, slope, length of run of slope, and type of vegetation on the cover; and
  - 3) Monitoring of groundwater.
- d) In addition to the requirements of Subpart G of this Part during the closure period the owner or operator of a land treatment facility must do the following:
- 1) It must continue unsaturated zone monitoring in a manner and frequency specified in the closure plan, except that soil pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone;
  - 2) It must maintain the run-on control system required under Section 725.372(b);
  - 3) It must maintain the run-off management system required under Section 725.372(c); and

4) It must control wind dispersal of particulate matter that may be subject to wind dispersal.

e) For the purpose of complying with Section 725.215, when closure is completed the owner or operator may submit to the Agency certification both by the owner or operator and by an independent, qualified soil scientist, in lieu of a qualified Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

f) In addition to the requirements of Section 725.217, during the post-closure care period the owner or operator of a land treatment unit must fulfill the following requirements:

1) It must continue soil-core monitoring by collecting and analyzing samples in a manner and frequency specified in the post-closure plan;

2) It must restrict access to the unit as appropriate for its post-closure use;

3) It must assure that growth of food chain crops complies with Section 725.376; and

4) It must control wind dispersal of hazardous waste.

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

#### SUBPART N: LANDFILLS

##### Section 725.401 Design Requirements

a) The owner or operator of each new landfill unit, each lateral expansion of a landfill unit, and each replacement of an existing landfill unit must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal system, in accordance with 35 Ill. Adm. Code 724.401(c), unless exempted by 35 Ill. Adm. Code 724.401(d), (e) or (f).

b) The owner or operator of each unit referred to in subsection (a) ~~of this Section~~ must notify the Agency at least 60 days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

c) The owner or operator of any replacement landfill unit is exempt from subsection (a) ~~of this Section~~ if both of the following are true:

1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.401(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of RCRA ~~the Resource Conservation and Recovery Act~~ (42 USC 6924(o)(1)(A)(i) and (o)(5)).

2) There is no reason to believe that the liner is not functioning as designed.

d) The Agency must not require a double liner as set forth in subsection (a) ~~of this Section~~ for any monofill, if the following conditions are fulfilled:

1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA hazardous waste numbers D004 through D017; and

2) Alternative demonstration.

A) Liner and location requirements.

i) The monofill has at least one liner for which there is no evidence that such liner is leaking;

ii) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 35 Ill. Adm. Code 702.110); and

iii) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with RCRA permits; or

B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

e) In the case of any unit in which the liner and leachate collection system have been installed pursuant to the requirements of subsection (a) ~~of this Section~~, and in good faith compliance with subsection (a) ~~of this Section~~ and with guidance documents governing liners and leachate collection systems under subsection (a) ~~of this Section~~, the Agency must not require a liner or leachate collection system that is different from that which was so installed pursuant to subsection (a) ~~of this Section~~ when issuing the first permit to such facility, except that the Agency is not precluded from requiring installation of a new liner when the Agency finds that any liner installed pursuant to the requirements of subsection (a) ~~of this Section~~ is leaking.

f) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

g) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24 hour, 25-year storm.

h) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

i) The owner or operator of a landfill containing hazardous waste that is subject to dispersal by wind must cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

BOARD NOTE: As required by Section 725.113, the waste analysis plan must include analyses needed to comply with Sections 725.412, 725.413, and 725.414. As required by Section 725.173, the owner or operator must place the results of these analyses in the operating record of the facility.

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

#### Section 725.402 Action Leakage Rate

a) The owner or operator of landfill units subject to Section 725.401(a) must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.401(b). Within 60 days after receipt of the notification, the Agency must establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

b) The Agency must approve an action leakage rate for landfill units subject to Section 725.401(a). The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.); construction, operation, and location of the LDS; waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover, and creep of synthetic components of the system; overburden pressures; etc.).

c) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under Section 725.404 to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow

rate for each sump must be calculated weekly during the active life and closure period, and monthly during the post-closure care period unless the Agency approves a different period under Section 725.404(b).

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

#### Section 725.403 Response Actions

a) The owner or operator of landfill units subject to Section 725.401(a) must develop and keep on site until closure of the facility a response action plan. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) ~~of this Section~~.

b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do each of the following:

1) Notify the Agency in writing of the exceedance within seven days after the determination;

2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids; likely sources of liquids; possible location, size, and cause of any leaks; and short-term actions taken and planned;

3) Determine to the extent practicable the location, size, and cause of any leak;

4) Determine whether waste receipt should cease or be curtailed; whether any waste should be removed from the unit for inspection, repairs, or controls; and whether or not the unit should be closed;

5) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

6) Within 30 days after the notification that the action leakage rate has been exceeded, submit to the Agency the results of the determinations specified in subsections (b)(3) through (b)(5) ~~of this Section~~, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the LDS exceeds the action leakage rate, the owner or operator must submit to the Agency a report summarizing the results of any remedial actions taken and actions planned.

c) To make the leak or remediation determinations in subsections (b)(3) through (b)(5) ~~of this Section~~, the owner or operator must do either of the following:

1) Perform the following assessments:

A) Assess the source of liquids and amounts of liquids by source;

B) Conduct a fingerprint, hazardous constituent or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

#### Section 725.404 Monitoring and Inspections

a) An owner or operator required to have an LDS under Section 725.401(a) must record the amount of liquids removed from each LDS sump at least once each week during the active life and closure period.

b) After the final cover is installed, the amount of liquids removed from each LDS sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

c) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the Agency based on pump activation level, sump dimensions and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with Section 725.402(a).

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act ~~[415 ILCS 5/40]~~.

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

#### Section 725.410 Closure and Post-Closure Care

a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to accomplish the following:

- 1) It must provide long-term minimization of migration of liquids through the closed landfill;
- 2) It must function with minimum maintenance;
- 3) It must promote drainage and minimize erosion or abrasion of the cover;
- 4) It must accommodate settling and subsidence so that the cover's integrity is maintained; and
- 5) It must have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

b) After final closure, the owner or operator must comply with all post-closure requirements contained in Section 725.217 through 725.220 including maintenance and monitoring throughout the post-closure care period. The owner or operator must do the following:

- 1) It must maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;
- 2) It must maintain and monitor the LDS in accordance with 35 Ill. Adm. Code 724.401(c)(3)(D) and (c)(4) and Section 725.404(b), and comply with all other applicable LDS requirements of this Part;
- 3) It must maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of Subpart F ~~of this Part~~;
- 4) It must prevent run-on and run-off from eroding or otherwise damaging the final cover; and
- 5) It must protect and maintain surveyed benchmarks used in complying with Section 725.409.

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

Section 725.412 Special Requirements for Ignitable or Reactive Wastes

a) Except as provided in subsection (b) ~~of this Section~~ and in Section 725.416, ignitable or reactive waste must not be placed in a landfill, unless the waste and landfill meets all applicable requirements of 35 Ill. Adm. Code 728, and the waste is treated, rendered or mixed before or immediately after placement in a landfill so that both of the following conditions are fulfilled:

1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123; and

2) Section 725.117(b) is complied with.

b) Except for prohibited wastes that remain subject to treatment standards in Subpart D of 35 Ill. Adm. Code 728, ignitable waste in containers may be landfilled without meeting the requirements of subsection (a) ~~of this Section~~, provided that the wastes are disposed of in such a way that they are protected from any material or conditions that may cause them to ignite. At a minimum, ignitable wastes must be disposed of in non-leaking containers that are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes that may generate heat sufficient to cause ignition of the waste.

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

Section 725.414 Special Requirements for Liquid Wastes

a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

b) Containers holding free liquids must not be placed in a landfill unless one of the following conditions is fulfilled:

1) One of the following occurs with regard to all free-standing liquid:

A) It has been removed by decanting or other methods;

B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

C) It has been otherwise eliminated;

2) The container is very small, such as an ampule;

- 3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
  - 4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.
- c) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
  - d) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations.
  - e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are one of the following: materials listed or described in subsection (e)(1) ~~of this Section~~; materials that pass one of the tests in subsection (e)(2) ~~of this Section~~; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104.
- 1) Nonbiodegradable sorbents are the following:
    - A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon, etc.); or
    - B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or
    - C) Mixtures of these nonbiodegradable materials.
  - 2) Tests for nonbiodegradable sorbents.
    - A) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) (Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi), incorporated by reference in 35 Ill. Adm. Code 720.111(a);

B) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) (Standard Practice for Determining Resistance of Plastics to Bacteria), incorporated by reference in 35 Ill. Adm. Code 720.111(a); or

C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method 301B (CO2 Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

f) The placement of any liquid that is not a hazardous waste in a landfill is prohibited. (See 35 Ill. Adm. Code 729.311.)

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

#### Section 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

a) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the USDOT hazardous materials regulations (49 CFR 173 (Shippers - General Requirements for Shipments and Packages), 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations specify a particular inside container for the waste.

b) The inside containers must be overpacked in an open head USDOT-specification metal shipping container (49 CFR 178 (Specifications for Packagings) and 179 (Specifications for Tank Cars), of no more than 416 l-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with 35 Ill. Adm. Code 725.414(e) to completely sorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and sorbent material.

c) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with Section 725.117(b).

d) Incompatible wastes, as defined in 35 Ill. Adm. Code 720.110, must not be placed in the same outside container.

e) Reactive waste, other than cyanide- or sulfide-bearing waste, as defined in 35 Ill. Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to packaging in accordance with subsections (a) through (d) ~~of this Section~~. Cyanide- or sulfide-bearing reactive waste may be packaged in accordance with subsections (a) through (d) ~~of this Section~~ without first being treated or rendered non-reactive.

f) Such disposal is in compliance with the requirements of 35 Ill. Adm. Code 728. Persons that incinerate lab packs according to the requirements of 35 Ill. Adm. Code 728.142(c)(1) may use fiber drums in place of metal outer containers. Such fiber drums must meet the USDOT specifications in 49 CFR 173.12 (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and be overpacked according to subsection (b) ~~of this Section~~.

g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid wastes or wastes containing free liquids allowed under this Section is restricted to labwaste and non-periodic waste, as those terms are defined in that Part.

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

#### SUBPART O: INCINERATORS

##### Section 725.440 Applicability

a) The regulations in this Subpart O apply to owners or operators of hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110), except as 35 Ill. Adm. Code 724.101 provides otherwise.

b) Integration of the MACT Standards.

1) Except as provided by subsections (b)(2) and (b)(3), the standards of this Part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 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, under 40 CFR 63.1207(j) and 63.1210(d), documenting compliance with the requirements of subpart EEE of 40 CFR 63.

2) The MACT standards of subpart EEE of 40 CFR 63 do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC ~~of this Part~~.

3) Section 725.445, generally prohibiting burning of hazardous waste during startup and shutdown, remains in effect if the owner or operator elects to comply with 35 Ill. Adm. Code 703.320(b)(1)(A) to minimize emissions of toxic compounds from startup and shutdown.

BOARD NOTE: Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63. 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.

c) An owner or operator of an incinerator that burns hazardous waste is exempt from all of the requirements of this Subpart O, except Section 725.451 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in Appendix H to 35 Ill. Adm. Code 721 and such documentation is retained at the facility, if the waste to be burned is one of the following:

1) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;

2) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5), and will not be burned when other hazardous wastes are present in the combustion zone;

3) It is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Subpart C of 35 Ill. Adm. Code 721; or

4) It is a hazardous waste solely because it possesses the reactivity characteristics described by 35 Ill. Adm. Code 721.123 (a)(1), (a)(2), (a)(3), (a)(6), (a)(7), or (a)(8) and will not be burned when other hazardous wastes are present in the combustion zone.

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

#### SUBPART P: THERMAL TREATMENT

##### Section 725.470 Other Thermal Treatment

The regulations in this Subpart P apply to owners and operators of facilities that thermally treat hazardous waste in devices other than enclosed devices using controlled flame combustion except, as Section 725.101 provides otherwise. Thermal treatment in enclosed devices using controlled flame combustion is subject to the requirements of Subpart O-~~of this Part~~ if the unit is an incinerator, and Subpart H of 35 Ill. Adm. Code 726, if the unit is a boiler or industrial furnace, as defined in 35 Ill. Adm. Code 720.110.

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

#### SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

##### Section 725.500 Applicability

The regulations in this Subpart Q apply to owners and operators of facilities that treat hazardous waste by chemical, physical, or biological methods in other than tanks, surface impoundments, and land treatment facilities, except as Section 725.101 provides otherwise. Chemical, physical, and biological treatment of hazardous waste in tanks, surface impoundments and land treatment facilities must be conducted in accordance with Subparts J, K, and M ~~of this Part~~, respectively.

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

#### SUBPART R: UNDERGROUND INJECTION

##### Section 725.530 Applicability

Except as Section 725.101 provides otherwise, the following apply:

- a) The owner or operator of a facility that disposes of hazardous waste by underground injection is excluded from the requirements of Subparts G and H ~~of this Part~~.
- b) The requirements of this Subpart R apply to owners and operators of wells that are used to dispose of hazardous waste which are classified as Class I under 35 Ill. Adm. Code 704.106(a) and which are classified as Class IV under 35 Ill. Adm. Code 704.106(d).

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

#### SUBPART W: DRIP PADS

##### Section 725.540 Applicability

a) The requirements of this Subpart W apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation or surface water run-on to an associated collection system.

1) An "existing drip pad" is one that fulfills the following conditions:

A) It was constructed before December 6, 1990; or

B) It was one for which the owner or operator had a design and had entered into binding financial or other agreements for construction prior to December 6, 1990.

2) All other drip pads are "new drip pads-".

3) The requirements of Section 725.543(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

b) The owner or operator of any drip pad that is inside or under a structure that provides protection from precipitation so that neither run-off nor run-on is generated is not subject to regulation under Section 724.672(e) or (f).

c) The requirements of this subsection are not applicable to the management of infrequent and incidental drippage in storage yards provided that the owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of infrequent and incidental drippage. At a minimum, the contingency plan must describe how the owner or operator will do the following:

1) Clean up the drippage;

2) Document the clean-up of the drippage;

3) Retain documentation regarding the clean-up for three years; and

4) Manage the contaminated media in a manner consistent with State and federal regulations.

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

#### Section 725.541 Assessment of Existing Drip Pad Integrity

a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 725.543(b). ~~The No later than June 6, 1991, the the~~ owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all the standards of Section 725.543 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 725.543, except the

standards for liners and leak detection systems specified in Section 725.543 (b) .

b) The owner or operator must develop a written plan for upgrading, repairing and modifying the drip pad to meet the requirements of Section 725.543 (b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 725.543. The plan must be reviewed and certified by a qualified Professional Engineer.

c) Upon completion of all repairs and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by a qualified Professional Engineer attesting that the drip pad conforms to the drawings.

d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of Section 725.543 (m) or close the drip pad in accordance with Section 725.545.

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

#### Section 725.543 Design and Operating Requirements

a) Drip pads must fulfill the following requirements:

1) It must not be constructed of earthen materials, wood, or asphalt, unless the asphalt is structurally supported;

2) It must be sloped to free-drain to the associated collection system treated wood drippage, rain, other waters, or solutions of drippage and water or other wastes;

3) It must have a curb or berm around the perimeter;

4) In addition, the drip pad must fulfill the following requirements:

A) It must have a hydraulic conductivity of less than or equal to  $1-? \times 10^{-7}$  centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to  $1-? \times 10^{-7}$  centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to the existing drip pads and those drip pads for

which the owner or operator elects to comply with Section 725.542(b) instead of Section 725.542(a).

B) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this Section, except for in subsection (b) ~~of this Section~~.

5) It must be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

BOARD NOTE: In judging the structural integrity requirement of this subsection (a), the Agency should generally consider applicable standards established by professional organizations generally recognized by the industry, including ACI 318-83 (Building Code Requirements for Reinforced Concrete) or ASTM C 94-~~90~~,90 (Standard Specification for Ready-Mixed Concrete), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) If an owner or operator elects to comply with Section 725.542(a) instead of Section 725.542(b), the drip pad must have the following features:

1) A synthetic liner installed below the drip pad that is designed, constructed, and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the drip pad. The liner must be constructed of materials that will prevent waste from being absorbed into the liner and to prevent releases into the adjacent subsurface soil or groundwater or surface water during the active life of the facility. The liner must be constructed as follows:

A) It must be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from vehicular traffic on the drip pad);

B) It must be placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

C) It must be installed to cover all surrounding earth that could come in contact with the waste or leakage; and

2) A leakage detection system immediately above the liner that is designed, constructed, maintained, and operated to detect leakage from the drip pad. The leakage detection system must be constructed as follows:

A) It must be constructed of materials that fulfill the following requirements:

i) They are chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and

ii) They are of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and

B) It must be designed and operated to function without clogging through the scheduled closure of the drip pad; and

C) It must be designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.

3) A leakage collection system immediately above the liner that is designed, constructed, maintained, and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.

BOARD NOTE: See subsection (m) ~~of this Section~~ for remedial action required if deterioration or leakage is detected.

d) The drip pad and associated collection system must be designed and operated to convey, drain and collect liquid resulting from drippage or precipitation in order to prevent run-off.

e) Unless the drip pad is protected by a structure, as described in Section 725.540(b), the owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain any run-on that might enter the system.

f) Unless the drip pad is protected by a structure or cover, as described in Section 725.540(b), the owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

g) The drip pad must be evaluated to determine that it meets the requirements of subsections (a) through (f) ~~of this Section~~. The owner or operator must obtain a statement from a qualified, Professional Engineer certifying that the drip pad design meets the requirements of this Section.

h) Drillage and accumulated precipitation must be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

i) The drip pad surface must be cleaned thoroughly at least once every seven days using an appropriate and effective cleaning technique, including but not limited to, rinsing, washing with detergents or other appropriate solvents, or steam cleaning, with residues being properly managed, such that accumulated residues of hazardous waste or other materials are removed as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document, in the facility's operating log, the date and time of each cleaning and the cleaning procedure.

j) Drip pads must be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

k) After being removed from the treatment vessel, treated wood from pressure and non-pressure processes must be held on the drip pad until drillage has ceased. The owner or operator must maintain records sufficient to document that all treated wood is held on the pad, in accordance with this Section, following treatment.

l) Collection and holding units associated with run-on and run-off control systems must be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

m) Throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition must be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures:

1) Upon detection of a condition that may have caused or has caused a release of hazardous waste (e.g., upon detection of leakage in the leak detection system), the owner or operator must perform the following acts:

A) It must enter a record of the discovery in the facility operating log;

B) It must immediately remove from service the portion of the drip pad affected by the condition;

C) It must determine what steps must be taken to repair the drip pad, clean up any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs;

D) Within 24 hours after discovery of the condition, the owner or operator must notify the Agency of the condition and, within 10 working days, provide written notice to the Agency with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

2) The Agency must: review the information submitted; make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete; and notify the owner or operator of the determination and the underlying rationale in writing.

3) Upon completing all repairs and clean up, the owner or operator must notify the Agency in writing and provide a certification, signed by an independent, qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with subsection (m) (1) (D) ~~of this Section~~.

n) The owner or operator must maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

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

#### SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

##### Section 725.930 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 725.101).

b) Except for Section 725.934(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 in one of the following:

1) A unit that is subject to the permitting requirements of 35 Ill. Adm. Code 702, 703, and 705;

2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 35 Ill. Adm. Code 722.117-~~722.134(a)~~ (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located on a hazardous waste management facility otherwise subject to the permitting requirements of 35 Ill. Adm. Code 702, 703, and 705; or

3) A unit that is exempt from permitting under the provisions of 35 Ill. Adm. Code 722.117-~~722.134(a)~~ (i.e., a "90-day" tank or container) and which is not a recycling unit under the requirements of 35 Ill. Adm. Code 721.106.

BOARD NOTE: The requirements of Sections 725.932 through 725.936 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 and 725.101(c) are not affected by these requirements.

c) Agency decisions pursuant to this Part must be made in writing, are in the nature of permit decisions pursuant to Section 39 of the Environmental Protection Act and may be appealed to the Board pursuant to 35 Ill. Adm. Code 105.

d) 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 42 Ill. Reg.           , effective           )

#### Section 725.931 Definitions

As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given them in 35 Ill. Adm. Code 724.931, section 1004 of the Resource Conservation and Recovery Act, incorporated by reference in 35 Ill. Adm. Code 720.111, and 35 Ill. Adm. Code 720 through 728, and 738.

"BTU" means British thermal unit.

"ft" means foot.

"h" means hour.

"kg" means kilogram.

"kPa" means kilopascals.

"lb" means pound.

"m" means meter.

"Mg" means Megagrams, or metric tonnes.

"MJ" means Megajoules, or ten to the sixth Joules.

"MW" means Megawatts.

"ppmv" means parts per million by volume.

"ppmw" meant parts per million by weight.

"s" means second.

"scm" means standard cubic meter.

"scft" meant standard cubic foot.

"yr" means year.

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

#### Section 725.932 Standards: Process Vents

a) The owner or operator of a facility with process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations managing hazardous wastes with organic concentrations of at least 10 ppmw must do either of the following:

- 1) Reduce total organic emissions from all affected process vents at the facility below 1.4 kg/h (3 lb/h) and 2.8 Mg/yr (3.1 tons/yr); or
- 2) Reduce, by use of a control device, total organic emissions from all affected process vents at the facility by 95 weight percent.

b) If the owner or operator installs a closed-vent system and control device to comply with the provisions of subsection (a) ~~of this Section~~, the closed-vent system and control device must meet the requirements of Section 725.933.

c) Determinations of vent emissions and emission reductions or total organic compound concentrations achieved by add-on control devices must be based on either engineering calculations or performance tests. If performance tests are used to determine vent emissions, emission reductions, or total organic compound concentrations achieved by add-on control devices, the performance tests must conform with the requirements of Section 725.934(c).



D) An owner or operator of a facility or unit that becomes newly subject to the requirements of this Subpart AA ~~after December 8, 1997,~~ due to an action other than those described in subsection (a)(2)(iii) must comply with all applicable requirements immediately (i.e., the facility or unit must have control devices installed and operating on the date the facility or unit becomes subject to this Subpart AA; the 30-month implementation schedule does not apply).

b) A control device involving vapor recovery (e.g., a condenser or adsorber) must be designed and operated to recover the organic vapors vented to it with an efficiency of 95 weight percent or greater unless the total organic emission limits of Section 725.932(a)(1) for all affected process vents is attained at an efficiency less than 95 weight percent.

c) An enclosed combustion device (e.g., a vapor incinerator, boiler, or process heater) must be designed and operated to reduce the organic emissions vented to it by 95 weight percent or greater; to achieve a total organic compound concentration of 20 ppmv, expressed as the sum of the actual compounds, not carbon equivalents, on a dry basis corrected to three percent oxygen; or to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760 degrees Celsius (°C). If a boiler or process heater is used as the control device, then the vent stream must be introduced into the flame combustion zone of the boiler or process heater.

d) Flares.

1) A flare must be designed for and operated with no visible emissions as determined by the methods specified in subsection (e)(1) except for periods not to exceed a total of five minutes during any two consecutive hours.

2) A flare must be operated with a flame present at all times, as determined by the methods specified in subsection (f)(2)(C).

3) A flare must be used only if the net heating value of the gas being combusted is 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted, or if the net heating value of the gas being combusted is 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted must be determined by the methods specified in subsection (e)(2).

4) Exit Velocity.

A) A steam-assisted or nonassisted flare must be designed for and operated with an exit velocity, as determined by the methods specified in subsection (e)(3), less than 18.3 m/s (60 ft/s), except as provided in subsections (d)(4)(B) and (d)(4)(C).

B) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in subsection (e) (3), equal to or greater than 18.3 m/s (60 ft/s) but less than 122 m/s (400 ft/s) is allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

C) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in subsection (e) (3), less than the velocity, V as determined by the method specified in subsection (e) (4) and less than 122 m/s (400 ft/s) is allowed.

5) An air-assisted flare must be designed and operated with an exit velocity less than the velocity, V, as determined by the method specified in subsection (e) (5).

6) A flare used to comply with this Section must be steam-assisted, air-assisted, or nonassisted.

e) Compliance Determination and Equations.

1) Reference Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must be used to determine the compliance of a flare with the visible emission provisions of this Subpart AA. The observation period is two hours and must be used according to Reference Method 22.

2) The net heating value of the gas being combusted in a flare must be calculated using the following equation:

Where:

HT = the net heating value of the sample in MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25 ° C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mole is 20 °C;  $K = 1.74 \times 10^{-7}$  (1/ppm) (g mol/scm) (MJ/kcal) where the standard temperature for (g mol/scm) is 20 ° C;  ~~$\sum X_i$~~   $\sum X_i$  = the sum of the values of X for each component i, from i=1 to n;  $C_i$  = the concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography) in appendix A to 40 CFR 60 (Test Methods), and for carbon monoxide, by ASTM D 1946-90 (Standard Practice for Analysis of Reformed Gas by Gas Chromatography), each incorporated by reference in 35 Ill. Adm. Code 720.111;  ~~$\sum H_i$~~   $\sum H_i$  = the net heat of combustion of sample component i, kcal/gmol at 25 ° C and 760 mm Hg. The heats of combustion must be determined using ASTM D 2382-88 (Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)),

incorporated by reference in 35 Ill. Adm. Code 720.111(a), if published values are not available or cannot be calculated.

3) The actual exit velocity of a flare must be determined by dividing the volumetric flow rate (in units of standard temperature and pressure), as determined by Reference Methods 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), or 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

4) The maximum allowed velocity in m/s, V for a flare complying with subsection (d)(4)(C) must be determined by the following equation:

Where:

$\log_{10}$  = logarithm to the base 10; ~~and~~HT = the net heating value as determined in subsection (e)(2).

5) The maximum allowed velocity in m/s, V, for an air-assisted flare must be determined by the following equation:

Where:

HT = the net heating value as determined in subsection (e)(2).

f) The owner or operator must monitor and inspect each control device required to comply with this Section to ensure proper operation and maintenance of the control device by implementing the following requirements:

1) Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that provides a record of vent stream flow from each affected process vent to the control device at least once every hour. The flow indicator sensor must be installed in the vent stream at the nearest feasible point to the control device inlet but before being combined with other vent streams.

2) Install, calibrate, maintain, and operate according to the manufacturer's specifications a device to continuously monitor control device operation, as specified below:

A) For a thermal vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device must have accuracy of  $\pm 1$  percent of the temperature being monitored in  $^{\circ}\text{C}$  or  $\pm 0.5$   $^{\circ}\text{C}$ , whichever is greater. The temperature sensor must be installed at a location in the combustion chamber downstream of the combustion zone.

B) For a catalytic vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature at two locations and have an accuracy of  $\pm 1$  percent of the temperature being monitored in  $^{\circ}\text{C}$  or  $\pm 0.5^{\circ}\text{C}$ , whichever is greater. One temperature sensor must be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor must be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

C) For a flare, a heat sensing monitoring device equipped with a continuous recorder that indicates the continuous ignition of the pilot flame.

D) For a boiler or process heater having a design heat input capacity less than 44 MW, a temperature monitoring device equipped with a continuous recorder. The device must have an accuracy of  $\pm 1$  percent of the temperature being monitored in  $^{\circ}\text{C}$  or  $\pm 0.5^{\circ}\text{C}$ , whichever is greater. The temperature sensor must be installed at a location in the furnace downstream of the combustion zone.

E) For a boiler or process heater having a design heat input capacity greater than or equal to 44 MW, a monitoring device equipped with a continuous recorder to measure parameters that indicate good combustion operating practices are being used.

F) For a condenser, either of the following:

i) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the condenser; or

ii) A temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of  $\pm 1$  percent of the temperature being monitored in degrees Celsius ( $^{\circ}\text{C}$ ) or  $\pm 0.5^{\circ}\text{C}$ , whichever is greater. The temperature sensor must be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

G) For a carbon adsorption system, such as a fixed-bed carbon adsorber that regenerates the carbon bed directly in the control device, either of the following:

i) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the carbon bed; or

ii) A monitoring device equipped with a continuous recorder to measure a parameter that indicates the carbon bed is regenerated on a regular, predetermined time cycle.

3) Inspect the readings from each monitoring device required by subsections (f)(1) and (f)(2) at least once each operating day to check control device operation and, if necessary, immediately implement the corrective measures necessary to ensure the control device operates in compliance with the requirements of this Section.

g) An owner or operator using a carbon adsorption system such as a fixed-bed carbon adsorber that regenerates the carbon bed directly onsite in the control device must replace the existing carbon in the control device with fresh carbon at a regular, predetermined time interval that is no longer than the carbon service life established as a requirement of Section 725.935(b)(4)(C)(vi).

h) An owner or operator using a carbon adsorption system, such as a carbon canister, that does not regenerate the carbon bed directly onsite in the control device must replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the following procedures:

1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency must be daily or at an interval no greater than 20 percent of the time required to consume the total carbon working capacity established as a requirement of Section 725.935(b)(4)(C)(vii), whichever is longer.

2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of Section 725.935(b)(4)(C)(vii).

i) An owner or operator of an affected facility seeking to comply with the provisions of this Part by using a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system is required to develop documentation including sufficient information to describe the control device operation and identify the process parameter or parameters that indicate proper operation and maintenance of the control device.

j) A closed-vent system must meet either of the following design requirements:

1) A closed-vent system must be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background, as determined by the methods specified at Section 725.934(b), and by visual inspections; or

2) A closed-vent system must be designed to operate at a pressure below atmospheric pressure. The system must be equipped with at least one pressure gauge or other pressure measurement device that can be read

from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

k) The owner or operator must monitor and inspect each closed-vent system required to comply with this Section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

1) Each closed-vent system that is used to comply with subsection (j)(1) must be inspected and monitored in accordance with the following requirements:

A) An initial leak detection monitoring of the closed-vent system must be conducted by the owner or operator on or before the date that the system becomes subject to this Section. The owner or operator must monitor the closed-vent system components and connections using the procedures specified in Section 725.934(b) to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background.

B) After initial leak detection monitoring required in subsection (k)(1)(A), the owner or operator must inspect and monitor the closed-vent system as follows:

i) Closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) must be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The owner or operator must monitor a component or connection using the procedures specified in Section 725.934(b) to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted).

ii) Closed-vent system components or connections other than those specified in subsection (k)(1)(B)(i) must be monitored annually and at other times as requested by the Agency, except as provided for in subsection (n), using the procedures specified in Section 725.934(b) to demonstrate that the components or connections operate with no detectable emissions.

C) In the event that a defect or leak is detected, the owner or operator must repair the defect or leak in accordance with the requirements of subsection (k)(3).

D) The owner or operator must maintain a record of the inspection and monitoring in accordance with the requirements specified in Section 725.935.

2) Each closed-vent system that is used to comply with subsection (j)(2) must be inspected and monitored in accordance with the following requirements:

A) The closed-vent system 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 ductwork or piping or loose connections.

B) The owner or operator must perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the owner or operator must perform the inspections at least once every year.

C) In the event that a defect or leak is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (k)(3).

D) The owner or operator must maintain a record of the inspection and monitoring in accordance with the requirements specified in Section 725.935.

3) The owner or operator must repair all detected defects as follows:

A) Detectable emissions, as indicated by visual inspection or by an instrument reading greater than 500 ppmv above background, must be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in subsection (k)(3)(C).

B) A first attempt at repair must be made no later than five calendar days after the emission is detected.

C) Delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown, or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of such equipment must be completed by the end of the next process unit shutdown.

D) The owner or operator must maintain a record of the defect repair in accordance with the requirements specified in Section 725.935.

l) A closed-vent system or control device used to comply with provisions of this Subpart AA must be operated at all times when emissions may be vented to it.

m) The owner or operator using a carbon adsorption system to control air pollutant emissions must document that all carbon removed that is a hazardous waste and that is removed from the control device is managed

in one of the following manners, regardless of the volatile organic concentration of the carbon:

1) It is regenerated or reactivated in a thermal treatment unit that meets one of the following:

A) The owner or operator of the unit has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart X of 35 Ill. Adm. Code 724; or

B) The unit is equipped with and operating air emission controls in accordance with the applicable requirements of Subparts AA and CC ~~of this Part~~ or 35 Ill. Adm. Code 724; or

C) The unit is equipped with and operating air emission controls in accordance with a federal national emission standard for hazardous air pollutants under 40 CFR 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).

2) It is incinerated in a hazardous waste incinerator for which the owner or operator has done either of the following:

A) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart O of 35 Ill. Adm. Code 724; or

B) The owner or operator has designed and operates the incinerator in accordance with the interim status requirements of Subpart O ~~of this Part~~.

3) It is burned in a boiler or industrial furnace for which the owner or operator has done either of the following:

A) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart H of 35 Ill. Adm. Code 726; or

B) The owner or operator has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726.

n) Any components of a closed-vent system that are designated, as described in Section 725.935(c)(9), as unsafe to monitor are exempt from the requirements of subsection (k)(1)(B)(ii) if both of the following conditions are fulfilled:

1) The owner or operator of the closed-vent system has determined that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with subsection (k)(1)(B)(ii); and

2) The owner or operator of the closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in subsection (k)(1)(B)(ii) as frequently as practicable during safe-to-monitor times.

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

#### Section 725.934 Test Methods and Procedures

a) Each owner or operator subject to the provisions of this Subpart AA must comply with the test methods and procedures requirements provided in this Section.

b) When a closed-vent system is tested for compliance with no detectable emissions, as required in Section 725.933(k), the test must comply with the following requirements:

1) Monitoring must comply with Reference Method 21 (Determination of Volatile Organic Compound Leaks) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2) The detection instrument must meet the performance criteria of Reference Method 21.

3) The instrument must be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

4) Calibration gases must be:

A) Zero air (less than 10 ppm of hydrocarbon in air).

B) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.

5) The background level must be determined as set forth in Reference Method 21.

6) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible, as described in Reference Method 21.

7) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

c) Performance tests to determine compliance with Section 725.932(a) and with the total organic compound concentration limit of Section 725.933(c) must comply with the following:

1) Performance tests to determine total organic compound concentrations and mass flow rates entering and exiting control devices must be conducted and data reduced in accordance with the following reference methods and calculation procedures:

A) Reference Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for velocity and volumetric flow rate.

B) Reference Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography) or 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for organic content. If Reference Method 25A is used, the organic hazardous air pollutant (HAP) used as the calibration gas must be the single HAP that represents the largest percent by volume of the emissions. The use of Reference Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

C) Each performance test must consist of three separate runs, each run conducted for at least 1 hour under the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur. For the purpose of determining total organic compound concentrations and mass flow rates, the average of results of all runs applies. The average must be computed on a time-weighted basis.

D) Total organic mass flow rates must be determined by the following equation:

i) For a source utilizing Reference Method 18:

Where:

$E_h$  = The total organic mass flow rate, kg/h;  $Q_{2sd}$  = The volumetric flow rate of gases entering or exiting control device, dscm/h, as determined by Reference Method 2;  $n$  = The number of organic compounds in the vent gas;  $C_i$  = The organic concentration in ppm, dry basis, of compound  $i$  in the vent gas, as determined by Reference Method 18;  $M_{Wi}$  = The molecular weight of organic compound  $i$  in the vent gas, kg/kg-mol; 0.0416 = The conversion factor for molar volume, kg-mol/m<sup>3</sup>, at 293 K and 760 mm Hg; and  $10^{-6}$  = The conversion factor from ppm.

ii) For a source utilizing Reference Method 25A:

Where:

Eh = The total organic mass flow rate, kg/h; Q = The volumetric flow rate of gases entering or exiting control device, dscm/h, as determined by Reference Method 2; C = The organic concentration in ppm, dry basis, of compound i in the vent gas, as determined by Reference Method 25A; MW = The molecular weight of propane, 44 kg/kg-mol; 0.0416 = The conversion factor for molar volume, kg-mol/m<sup>3</sup>, at 293 K and 760 mm Hg; and 10<sup>-6</sup> = The conversion factor from ppm.

E) The annual total organic emission rate must be determined by the following equation:

$$A = F \times C \times H$$

Where:

A = total organic emission rate, kg/y; F = the total organic mass flow rate, kg/h, as calculated in subsection (c) (1) (D); ~~and H~~ = the total annual hours of operation for the affected unit, h/y.

F) Total organic emissions from all affected process vents at the facility must be determined by summing the hourly total organic mass emissions rates (F, as determined in subsection (c) (1) (D)) and by summing the annual total organic mass emission rates (A, as determined in subsection (c) (1) (E)) for all affected process vents at the facility.

2) The owner or operator must record such process information as is necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction do not constitute representative conditions for the purpose of a performance test.

3) The owner or operator of an affected facility must provide, or cause to be provided, performance testing facilities as follows:

A) Sampling ports adequate for the test methods specified in subsection (c) (1).

B) Safe sampling platforms.

C) Safe access to sampling platforms.

D) Utilities for sampling and testing equipment.

4) For the purpose of making compliance determinations, the time-weighted average of the results of the three runs must apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Agency's approval, be determined using the average of the results of the two other runs.

d) To show that a process vent associated with a hazardous waste distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation is not subject to the requirements of this Subpart AA, the owner or operator must make an initial determination that the time-weighted, annual average total organic concentration of the waste managed by the waste management unit is less than 10 ppmw using one of the following two methods:

1) Direct measurement of the organic concentration of the waste using the following procedures:

A) The owner or operator must take a minimum of four grab samples of waste for each wastestream managed in the affected unit under process conditions expected to cause the maximum waste organic concentration.

B) For waste generated onsite, the grab samples must be collected at a point before the waste is exposed to the atmosphere, such as in an enclosed pipe or other closed system that is used to transfer the waste after generation to the first affected distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation. For waste generated offsite, the grab samples must be collected at the inlet to the first waste management unit that receives the waste provided the waste has been transferred to the facility in a closed system such as a tank truck and the waste is not diluted or mixed with other waste.

C) Each sample must be analyzed and the total organic concentration of the sample must be computed using Method 9060A (Total Organic Carbon) of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, incorporated by reference under 35 Ill. Adm. Code 720.111(a), or analyzed for its individual constituents.

D) The arithmetic mean of the results of the analyses of the four samples apply for each wastestream managed in the unit in determining the time-weighted, annual average total organic concentration of the waste. The time-weighted average is to be calculated using the annual quantity of each waste stream processed and the mean organic concentration of each wastestream managed in the unit.

2) Using knowledge of the waste to determine that its total organic concentration is less than 10 ppmw. Documentation of the waste determination is required. Examples of documentation that must be used to support a determination under this subsection (d)(2) include the following:

A) Production process information documenting that no organic compounds are used;

B) Information that the waste is generated by a process that is identical to a process at the same or another facility that has

previously been demonstrated by direct measurement to generate a wastestream having a total organic content less than 10 ppmw; or

C) Prior speciation analysis results on the same wastestream where it is documented that no process changes have occurred since that analysis that could affect the waste total organic concentration.

e) The determination that distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with time-weighted, annual average total organic concentrations less than 10 ppmw must be made as follows:

1) By the effective date that the facility becomes subject to the provisions of this Subpart AA or by the date when the waste is first managed in a waste management unit, whichever is later;

2) For continuously generated waste, annually; and

3) Whenever there is a change in the waste being managed or a change in the process that generates or treats the waste.

f) When an owner or operator and the Agency do not agree on whether a distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operation manages a hazardous waste with organic concentrations of at least 10 ppmw based on knowledge of the waste, the dispute may be resolved using direct measurement, as specified in subsection (d)(1).

(Source: Amended at 42 Ill. Reg. ———, effective  
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#### Section 725.935 Recordkeeping Requirements

a) Compliance Required.

1) Each owner or operator subject to the provisions of this Subpart AA must comply with the recordkeeping requirements of this Section.

2) An owner or operator of more than one hazardous waste management unit subject to the provisions of this Subpart AA may comply with the recordkeeping requirements for these hazardous waste management units in one recordkeeping system if the system identifies each record by each hazardous waste management unit.

b) Owners and operators must record the following information in the facility operating record:

1) For facilities that comply with the provisions of Section 725.933(a)(2), an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The schedule must also include a rationale of why the installation cannot be completed at an earlier date. The implementation

schedule must be in the facility operating record by the effective date that the facility becomes subject to the provisions of this Subpart AA.

2) Up-to-date documentation of compliance with the process vent standards in Section 725.932, including the following:

A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

B) Information and data supporting determination of vent emissions and emission reductions achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, determinations of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or vent stream organic compounds and concentrations) that represent the conditions that result in maximum organic emissions, such as when the waste management unit is operating at the highest load or capacity level reasonably expected to occur. If the owner or operator takes any action (e.g., managing a waste of different composition or increasing operating hours of affected waste management units) that would result in an increase in total organic emissions from affected process vents at the facility, then a new determination is required.

3) Where an owner or operator chooses to use test data to determine the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan. The test plan must include the following:

A) A description of how it is determined that the planned test is going to be conducted when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur. This must include the estimated or design flow rate and organic content of each vent stream and define the acceptable operating ranges of key process and control device parameters during the test program.

B) A detailed engineering description of the closed-vent system and control device including the following:

i) Manufacturer's name and model number of control device;

ii) Type of control device;

iii) Dimensions of the control device;

iv) Capacity; and

v) Construction materials.

C) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

4) Documentation of compliance with Section 725.933 must include the following information:

A) A list of all information references and sources used in preparing the documentation;

B) Records, including the dates of each compliance test required by Section 725.933(j);

C) If engineering calculations are used, a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions", USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts, approved by the Agency, that present basic control device design information. Documentation provided by the control device manufacturer or vendor that describes the control device design in accordance with subsections (b)(4)(C)(i) through (b)(4)(C)(vii) may be used to comply with this requirement. The design analysis must address the vent stream characteristics and control device operation parameters as specified below.

i) For a thermal vapor incinerator, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also establish the design minimum and average temperature in the combustion zone and the combustion zone residence time.

ii) For a catalytic vapor incinerator, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also establish the design minimum and average temperatures across the catalyst bed inlet and outlet.

iii) For a boiler or process heater, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also establish the design minimum and average flame zone temperatures, combustion zone residence time and description of method and location where the vent stream is introduced into the combustion zone.

iv) For a flare, the design analysis must consider the vent stream composition, constituent concentrations, and flow rate. The design analysis must also consider the requirements specified in Section 725.933(d).

v) For a condenser, the design analysis must consider the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature. The design analysis must also establish the design outlet organic compound concentration level, design average temperature of the condenser exhaust vent stream and design average temperatures of the coolant fluid at the condenser inlet and outlet.

vi) For a carbon adsorption system, such as a fixed-bed adsorber that regenerates the carbon bed directly onsite in the control device, the design analysis must consider the vent stream composition, constituent concentrations, flow rate, relative humidity and temperature. The design analysis must also establish the design exhaust vent stream organic compound concentration level, number and capacity of carbon beds, type and working capacity of activated carbon used for carbon beds, design total steam flow over the period of each complete carbon bed regeneration cycle, duration of the carbon bed steaming and cooling/drying cycles, design carbon bed temperature after regeneration, design carbon bed regeneration time and design service life of carbon.

vii) For a carbon adsorption system, such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device, the design analysis must consider the vent stream composition, constituent concentrations, flow rate, relative humidity and temperature. The design analysis must also establish the design outlet organic concentration level, capacity of carbon bed, type and working capacity of activated carbon used for carbon bed and design carbon replacement interval based on the total carbon working capacity of the control device and source operating schedule;

D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur;

E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 percent or greater unless the total organic concentration limit of Section 725.932(a) is achieved at an efficiency less than 95 weight percent or the total organic emission limits of Section 725.932(a) for affected process vents at the facility are attained by a control device involving vapor recovery at an efficiency less than 95 weight percent. A statement provided by the control device manufacturer or vendor certifying that the control equipment meets the design specifications may be used to comply with this requirement; and

F) If performance tests are used to demonstrate compliance, all test results.

c) Design documentation and monitoring operating and inspection information for each closed-vent system and control device required to comply with the provisions of this Part must be recorded and kept

up-to-date in the facility operating record. The information must include the following:

- 1) Description and date of each modification that is made to the closed-vent system or control device design;
- 2) Identification of operating parameter, description of monitoring device, and diagram of monitoring sensor location or locations used to comply with Section 725.933(f)(1) and (f)(2);
- 3) Monitoring, operating and inspection information required by Section 725.933(f) through (k);
- 4) Date, time, and duration of each period that occurs while the control device is operating when any monitored parameter exceeds the value established in the control device design analysis, as specified below:
  - A) For a thermal vapor incinerator designed to operate with a minimum residence time of 0.50 second at a minimum temperature of 760 °C, any period when the combustion temperature is below 760 °C.
  - B) For a thermal vapor incinerator designed to operate with an organic emission reduction efficiency of 95 percent or greater, any period when the combustion zone temperature is more than 28 °C below the design average combustion zone temperature established as a requirement of subsection (b)(4)(C)(i).
  - C) For a catalytic vapor incinerator, any period when either of the following occurs:
    - i) Temperature of the vent stream at the catalyst bed inlet is more than 28 °C below the average temperature of the inlet vent stream established as a requirement of subsection (b)(4)(C)(ii); or
    - ii) Temperature difference across the catalyst bed is less than 80 percent of the design average temperature difference established as a requirement of subsection (b)(4)(C)(ii).
  - D) For a boiler or process heater, any period when either of the following occurs:
    - i) Flame zone temperature is more than 28 °C below the design average flame zone temperature established as a requirement of subsection (b)(4)(C)(iii); or
    - ii) Position changes where the vent stream is introduced to the combustion zone from the location established as a requirement of subsection (b)(4)(C)(iii).
  - E) For a flare, period when the pilot flame is not ignited.

F) For a condenser that complies with Section 725.933(f)(2)(F)(i), any period when the organic compound concentration level or readings of organic compounds in the exhaust vent stream from the condenser are more than 20 percent greater than the design outlet organic compound concentration level established as a requirement of subsection (b)(4)(C)(v).

G) For a condenser that complies with Section 725.933(f)(2)(F)(ii), any period when either of the following occurs:

i) Temperature of the exhaust vent stream from the condenser is more than 6 °C above the design average exhaust vent stream temperature established as a requirement of subsection (b)(4)(C)(v); or

ii) Temperature of the coolant fluid exiting the condenser is more than 6 °C above the design average coolant fluid temperature at the condenser outlet established as a requirement of subsection (b)(4)(C)(v).

H) For a carbon adsorption system, such as a fixed-bed carbon adsorber that regenerates the carbon bed directly onsite in the control device and which complies with Section 725.933(f)(2)(G)(i), any period when the organic compound concentration level or readings of organic compounds in the exhaust vent stream from the carbon bed are more than 20 percent greater than the design exhaust vent stream organic compound concentration level established as a requirement of subsection (b)(4)(C)(vi).

I) For a carbon adsorption system, such as a fixed-bed carbon adsorber that regenerates the carbon bed directly onsite in the control device and which complies with Section 725.933(f)(2)(G)(ii), any period when the vent stream continues to flow through the control device beyond the predetermined carbon bed regeneration time established as a requirement of subsection (b)(4)(C)(vi);

5) Explanation for each period recorded under subsection (c)(4) of the cause for control device operating parameter exceeding the design value and the measures implemented to correct the control device operation;

6) For carbon adsorption systems operated subject to requirements specified in Section 725.933(g) or (h)(2), any date when existing carbon in the control device is replaced with fresh carbon;

7) For carbon adsorption systems operated subject to requirements specified in Section 725.933(h)(1), a log that records:

A) Date and time when control device is monitored for carbon breakthrough and the monitoring device reading.

B) Date when existing carbon in the control device is replaced with fresh carbon;

- 8) Date of each control device startup and shutdown;
- 9) An owner or operator designating any components of a closed-vent system as unsafe to monitor pursuant to Section 725.933(n) must record in a log that is kept in the facility operating record the identification of closed-vent system components that are designated as unsafe to monitor in accordance with the requirements of Section 725.933(n), an explanation for each closed-vent system component stating why the closed-vent system component is unsafe to monitor, and the plan for monitoring each closed-vent system component; and
- 10) When each leak is detected, as specified in Section 725.933(k), the following information must be recorded:
  - A) The instrument identification number, the closed-vent system component identification number, and the operator name, initials, or identification number;
  - B) The date the leak was detected and the date of first attempt to repair the leak;
  - C) The date of successful repair of the leak;
  - D) Maximum instrument reading measured by Reference 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), after it is successfully repaired or determined to be nonrepairable; and
  - E) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.
    - i) The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. In such cases, reasons for delay of repair may be documented by citing the relevant sections of the written procedure.
    - ii) If delay of repair was caused by depletion of stocked parts, there must be documentation that the spare parts were sufficiently stocked on-site before depletion and the reason for depletion.
- d) Records of the monitoring, operating and inspection information required by subsections (c)(3) through (c)(10) must be maintained by the owner or operator for at least three years following the date of each occurrence, measurement, corrective action, or record.
- e) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser or carbon adsorption system, monitoring and inspection information indicating proper operation and maintenance of the control device must be recorded in the facility operating record.

f) Up-to-date information and data used to determine whether or not a process vent is subject to the requirements in Section 725.932, including supporting documentation as required by Section 725.934(d)(2), when application of the knowledge of the nature of the hazardous waste stream or the process by which it was produced is used, must be recorded in a log that is kept in the facility operating record.

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

#### SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

##### Section 725.950 Applicability

a) The regulations in this Subpart BB apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in Section 725.101).

b) Except as provided in Section 725.964(k), this Subpart BB applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

1) A unit that is subject to the RCRA permitting requirements of 35 Ill. Adm. Code 702, 703, and 705;

2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 35 Ill. Adm. Code 722.117-~~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 702, 703, and 705; or

3) A unit that is exempt from permitting under the provisions of 35 Ill. Adm. Code 722.117-~~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) Each piece of equipment to which this Subpart BB applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

d) Equipment that is in vacuum service is excluded from the requirements of Sections 725.952 to 725.960, if it is identified as required in Section 725.964(g)(5).

e) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per calendar year is excluded from the requirements of Sections 725.952 through 725.960 if it is identified as required in Section 725.964(g)(6).

f) This subsection (f) corresponds with 40 CFR 265.1050(f), which relates exclusively to a facility outside Illinois. This statement maintains structural consistency with the corresponding federal regulations.

g) Purged coatings and solvents from surface coating operations subject to the federal national emission standards for hazardous air pollutants (NESHAPs) for the surface coating of automobiles and light-duty trucks at subpart I IIII of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks) are not subject to the requirements of this Subpart BB.

BOARD NOTE: The requirements of Sections 725.952 through 725.964 apply to equipment associated with hazardous waste recycling units previously exempt under 35 Ill. Adm. Code 721.106(c)(1). Other exemptions under 35 Ill. Adm. Code 721.104 and 725.101(e) are not affected by these requirements.

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

#### Section 725.951 Definitions

As used in this Subpart BB, all terms have the meaning given them in Section 725.931, section 1004 of the Resource Conservation and Recovery Act, incorporated by reference in 35 Ill. Adm. Code 720.111, and 35 Ill. Adm. Code 720 through 728, and 738.

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

#### Section 725.953 Standards: Compressors

a) Each compressor must be equipped with a seal system that includes a barrier fluid system and that prevents leakage of total organic emissions to the atmosphere, except as provided in subsections (h) and (i) ~~of this Section~~.

b) The following must be true of each compressor seal system, as required in subsection (a) ~~of this Section~~:

1) Operated with the barrier fluid at a pressure that is at all times greater than the compressor stuffing box pressure;

2) Equipped with a barrier fluid system that is connected by a closed-vent system to a control device that complies with the requirements of Section 725.960; or

3) Equipped with a system that purges the barrier fluid into a hazardous wastestream with no detectable emissions to atmosphere.

c) The barrier fluid must not be a hazardous waste with organic concentrations 10 percent or greater by weight.

d) Each barrier fluid system, as described in subsections (a) through (c) ~~of this Section~~, must be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

e) Inspections.

1) Each sensor, as required in subsection (d) ~~of this Section~~, must be checked daily or must be equipped with an audible alarm that must be checked monthly to ensure that it is functioning properly, unless the compressor is located within the boundary of an unmanned plant site, in which case the sensor must be checked daily.

2) The owner or operator must determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

f) If the sensor indicates failure of the seal system, the barrier fluid system, or both based on the criterion determined under subsection (e) (2) ~~of this Section~~, a leak is detected.

g) Repairs.

1) When a leak is detected, it must be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in Section 725.959.

2) A first attempt at repair (e.g., tightening the packing gland) must be made no later than five calendar days after each leak is detected.

h) A compressor is exempt from the requirements of subsections (a) and (b) ~~of this Section~~ if it is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal to a control device that complies with the requirements of Section 725.960, except as provided in subsection (i) ~~of this Section~~.

i) Any compressor that is designated, as described in Section 725.964(g) (2), for no detectable emission as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of subsections (a) through (h) ~~of this Section~~ if the following is true of the compressor:

1) It is determined to be operating with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in Section 725.963(c).

2) It is tested for compliance with subsection (i) (1) ~~of this Section~~ initially upon designation, annually and other times as specified by the Agency pursuant to Section 725.950(e).

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

Section 725.954 Standards: Pressure Relief Devices in Gas/Vapor Service

a) Except during pressure releases, each pressure relief device in gas/vapor service must be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background as measured by the method specified in Section 725.963(c).

b) Actions following pressure release.

1) After each pressure release, the pressure relief device must be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after each pressure release, except as provided in Section 725.959.

2) No later than five calendar days after the pressure release, the pressure relief device must be monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in Section 725.963(c).

c) Any pressure relief device that is equipped with a closed-vent system capable of capturing and transporting leakage from the pressure relief device to a control device as described in Section 725.960 is exempt from the requirements of subsections (a) and (b) ~~of this Section~~.

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

Section 725.955 Standards: Sampling Connecting Systems

a) Each sampling connection system must be equipped with a closed-purge, closed-loop, or closed-vent system. This system must collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

b) Each closed-purge, closed-loop, or closed-vent system as required in subsection (a) ~~of this Section~~ must meet one of the following requirements:

1) Return the purged process fluid directly to the process line;

2) Collect and recycle the purged process fluid; or

3) Be designed and operated to capture and transport all the purged process fluid to a waste management unit that complies with the applicable requirements of Sections 725.985 through 725.987 or a control device that complies with the requirements of Section 725.960.

c) In-situ sampling systems and sampling systems without purges are exempt from the requirements of subsections (a) and (b) ~~of this Section.~~

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

Section 725.956 Standards: Open-Ended Valves or Lines

a) Equipment.

1) Each open-ended valve or line must be equipped with a cap, blind flange, plug, or a second valve.

2) The cap, blind flange, plug, or second valve must seal the open end at all times except during operations requiring hazardous wastestream flow through the open-ended valve or line.

b) Each open-ended valve or line equipped with a second valve must be operated in a manner such that the valve on the hazardous wastestream end is closed before the second valve is closed.

c) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but must comply with subsection (a) ~~of this Section~~ at all other times.

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

Section 725.957 Standards: Valves in Gas/Vapor or Light Liquid Service

a) Each valve in gas/vapor or light liquid service must be monitored monthly to detect leaks by the methods specified in Section 725.963(b) and must comply with subsections (b) through (e) ~~of this Section~~, except as provided in subsections (f), (g), and (h) ~~of this Section~~ and in Sections 725.961 and 725.962.

b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

c) Monitoring Frequency.

1) Any valve for which a leak is not detected for two successive months must be monitored the first month of every succeeding quarter, beginning with the next quarter, until a leak is detected.

2) If a leak is detected, the valve must be monitored monthly until a leak is not detected for two successive months,

d) Leak repair.

1) When a leak is detected, it must be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in Section 725.959.

2) A first attempt at repair must be made no later than five calendar days after each leak is detected.

e) First attempts at repair include, but are not limited to the following best practices where practicable:

1) Tightening of bonnet bolts;

2) Replacement of bonnet bolts;

3) Tightening of packing gland nuts; or

4) Injection of lubricant into lubricated packing.

f) Any valve that is designated, as described in Section 725.964(g)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of subsection (a) ~~of this Section~~ if the valve fulfills the following requirements:

1) It has no external actuating mechanism in contact with the hazardous wastestream;

2) It is operated with emissions less than 500 ppm above background as determined by the method specified in Section 725.963(c); and

3) It is tested for compliance with subsection (f)(2) initially upon designation, annually, and at other times as specified by the Agency pursuant to Section 725.950(e).

g) Any valve that is designated, as described in Section 725.964(h)(1), as an unsafe-to-monitor valve is exempt from the requirements of subsection (a), if the following conditions are fulfilled:

1) The owner or operator of the valve determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with subsection (a) ~~of this Section~~; and

2) The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

h) Any valve that is designated, as described in Section 725.964(h)(2), as a difficult-to-monitor valve is exempt from the requirements of subsection (a), if the following conditions are fulfilled:

- 1) The owner or operator of the valve determines that the valve cannot be monitored without elevating the monitoring personnel more than two meters above a support surface;
- 2) The hazardous waste management unit within which the valve is located was in operation before June 21, 1990; and
- 3) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

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

Section 725.958 Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other Connectors

a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service and flanges and other connectors must be monitored within five days by the method specified in Section 725.963(b), if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.

b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

c) Repairs.

1) When a leak is detected, it must be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in Section 725.959.

2) The first attempt at repair must be made no later than five calendar days after each leak is detected.

d) First attempts at repair include, but are not limited to, the best practices described under Section 725.957(e).

e) Any connector that is inaccessible or is ceramic or ceramic-lined (e.g., porcelain, glass, or glass-lined) is exempt from the monitoring requirements of subsection ~~(a) of this Section~~ and from the recordkeeping requirements of Section 725.964.

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

Section 725.960 Standards: Closed-Vent Systems and Control Devices

a) An owner or operator of a closed-vent system or control device subject to this Subpart BB must comply with the provisions of Section 725.933.

b) Implementation Schedule.

1) The owner or operator of an existing facility that cannot install a closed-vent system and control device to comply with the provisions of this Subpart BB on the effective date that the facility becomes subject to the provisions of this Subpart BB must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this Subpart BB for installation and startup.

2) Any unit that ~~begins operation after December 21, 1990, and which~~ is subject to the provisions of this Subpart BB when operation begins, must comply with the rules immediately (i.e., the unit must have control devices installed and operating on startup of the affected unit); the 30-month implementation schedule does not apply.

3) The owner or operator of any facility in existence on the effective date of a statutory or regulatory amendment that renders the facility subject to this Subpart BB must comply with all requirements of this Subpart BB as soon as practicable but no later than 30 months after the effective date of the amendment. When control equipment required by this Subpart BB cannot be installed and begin operation by the effective date of the amendment, the facility owner or operator must prepare an implementation schedule that includes the following information: Specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, initiation of on-site installation of the control equipment, completion of the control equipment installation, and performance of any testing to demonstrate that the installed equipment meets the applicable standards of this Subpart BB. The owner or operator must enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

4) An owner or operator of a facility or unit that becomes newly subject to the requirements of this Subpart BB due to an action other than those described in subsection (b)(3) ~~of this Section~~ must comply with all applicable requirements immediately (i.e., the facility or unit must have control devices installed and operating on the date the facility or unit becomes subject to this Subpart BB; the 30-month implementation schedule does not apply).

(Source: Amended at 42 Ill. Reg. ~~\_\_\_\_\_~~, effective  
~~\_\_\_\_\_~~)

Section 725.961 Percent Leakage Alternative for Valves



six months) for the valves subject to the requirements in Section 725.957.

3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than two percent, an owner or operator may begin to skip three of the quarterly leak detection periods (i.e., the owner or operator may monitor for leaks once every year) for the valves subject to the requirements in Section 725.957.

4) If the percentage of valves leaking is greater than two percent, the owner or operator must monitor monthly in compliance with the requirements in Section 725.957, but may again elect to use this Section after meeting the requirements of Section 725.957(c)(1).

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

#### Section 725.963 Test Methods and Procedures

a) Each owner or operator subject to the provisions of this Subpart BB must comply with the test methods and procedures requirements provided in this Section.

b) Leak detection monitoring, as required in Sections 725.952 through 725.962, must comply with the following requirements:

1) Monitoring must comply with Reference Method 21 (Determination of Volatile Organic Compound Leaks) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

2) The detection instrument must meet the performance criteria of Reference Method 21;

3) The instrument must be calibrated before use on each day of its use by the procedures specified in Reference Method 21;

4) Calibration gases must be as follows:

A) Zero air (less than 10 ppm of hydrocarbon in air);

B) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane; and

5) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

c) When equipment is tested for compliance with no detectable emissions, as required in Sections 725.952(e), 725.953(i), 725.954, and 725.957(f), the test must comply with the following requirements:

- 1) The requirements of subsections (b) (1) through (b) (4) ~~of this Section~~ apply;
  - 2) The background level must be determined as set forth in Reference Method 21;
  - 3) The instrument probe must be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21; and
  - 4) This arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.
- d) In accordance with the waste analysis plan required by Section 725.113(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the following:
- 1) Methods described in ASTM Methods D 2267-88 (Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography), E 168-88 (Standard Practices for General Techniques of Infrared Quantitative Analysis), E 169-87 (Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis), or E 260-85 (Standard Practice for Packed Column Gas Chromatography), each incorporated by reference in 35 Ill. Adm. Code 720.111(a);
  - 2) Method 9060A (Total Organic Carbon) of "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), or analyzed for its individual organic constituents; or
  - 3) Application of the knowledge of the nature of the hazardous wastestream or the process by which it was produced. Documentation of a waste determination by knowledge is required. Examples of documentation that must be used to support a determination under this provision include production process information documenting that no organic compounds are used, information that the waste is generated by a process that is identical to a process at the same or another facility that has previously been demonstrated by direct measurement to have a total organic content less than 10 percent, or prior speciation analysis results on the same wastestream where it is also documented that no process changes have occurred since that analysis that could affect the waste total organic concentration.
- e) If an owner or operator determines that a piece of equipment contains or contacts a hazardous waste with organic concentrations at least 10 percent by weight, the determination can be revised only after following the procedures in subsection (d) (1) or (d) (2) ~~of this Section~~.

f) When an owner or operator and the Agency do not agree on whether a piece of equipment contains or contacts a hazardous waste with organic concentrations at least 10 percent by weight, the procedures in subsection (d) (1) or (d) (2) ~~of this Section~~ must be used to resolve the dispute.

g) Samples used in determining the percent organic content must be representative of the highest total organic content hazardous waste that is expected to be contained in or contact the equipment.

h) To determine if pumps or valves are in light liquid service, the vapor pressures of constituents must either be obtained from standard reference texts or be determined by ASTM 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).

i) Performance tests to determine if a control device achieves 95 weight percent organic emission reduction must comply with the procedures of Section 725.934(c) (1) through (c) (4).

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

#### Section 725.964 Recordkeeping Requirements

a) Lumping Units.

1) Each owner or operator subject to the provisions of this Subpart BB must comply with the recordkeeping requirements of this Section.

2) An owner or operator of more than one hazardous waste management unit subject to the provisions of this Subpart BB may comply with the recordkeeping requirements for these hazardous waste management units in one recordkeeping system if the system identifies each record by each hazardous waste management unit.

b) Owners and operators must record the following information in the facility operating record:

1) For each piece of equipment to which this Subpart BB applies, the following:

A) Equipment identification number and hazardous waste management unit identification;

B) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);

C) Type of equipment (e.g., a pump or pipeline valve);

D) Percent-by-weight total organics in the hazardous wastestream at the equipment;

E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and

F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals");

2) For facilities that comply with the provisions of Section 725.933(a)(2), an implementation schedule, as specified in that Section;

3) Where an owner or operator chooses to use test data to demonstrate the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan, as specified in Section 725.935(b)(3); and

4) Documentation of compliance with Section 725.960, including the detailed design documentation or performance test results specified in Section 725.935(b)(4).

c) When each leak is detected, as specified in Section 725.952, 725.953, 725.957, or 725.958, the following requirements apply:

1) A weatherproof and readily visible identification, marked with the equipment identification number, the date evidence of a potential leak was found in accordance with Section 725.958(a), and the date the leak was detected, must be attached to the leaking equipment;

2) The identification on equipment except on a valve, may be removed after it has been repaired; and

3) The identification on a valve may be removed after it has been monitored for two successive months as specified in Section 725.957(c) and no leak has been detected during those two months.

d) When each leak is detected, as specified in Sections 725.952, 725.953, 725.957, or 725.958, the following information must be recorded in an inspection log and must be kept in the facility operating record:

1) The instrument and operator identification numbers and the equipment identification number;

2) The date evidence of a potential leak was found in accordance with Section 725.958(a);

3) The date the leak was detected and the dates of each attempt to repair the leak;

4) Repair methods applied in each attempt to repair the leak;

5) "~~Above 10,000, 10,000~~", if the maximum instrument reading measured by the methods specified in Section 725.963(b) after each repair attempt is equal to or greater than 10,000 ppm;

6) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak;

7) Documentation supporting the delay of repair of a valve in compliance with Section 725.959(c);

8) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a hazardous waste management unit shutdown;

9) The expected date of successful repair of the leak if a leak is not repaired within 15 calendar days; and

10) The date of successful repair of the leak.

e) Design documentation and monitoring, operating, and inspection information for each closed-vent system and control device required to comply with the provisions of Section 725.960 must be recorded and kept up-to-date in the facility operating record as specified in Section 725.935(c)(1) and (c)(2), and monitoring, operating and inspection information in Section 725.935(c)(3) through (c)(8).

f) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system, monitoring and inspection information indicating proper operation and maintenance of the control device must be recorded in the facility operating record.

g) The following information pertaining to all equipment subject to the requirements in Sections 725.952 through 725.960 must be recorded in a log that is kept in the facility operating record:

1) A list of identification numbers for equipment (except welded fittings) subject to the requirements of this Subpart BB.

2) List of Equipment.

A) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, under the provisions of Sections 725.952(e), 725.953(i), and 725.957(f).

B) The designation of this equipment as subject to the requirements of Section 725.952(e), 725.953(i), or 725.957(f) must be signed by the owner or operator.

3) A list of equipment identification numbers for pressure relief devices required to comply with Section 725.954(a).

4) Compliance Tests.

A) The dates of each compliance test required in Sections 725.952(e), 725.953(i), 725.954, and 725.957(f).

B) The background level measured during each compliance test.

C) The maximum instrument reading measured at the equipment during each compliance test.

5) A list of identification numbers for equipment in vacuum service.

6) Identification, either by list or location (area or group) of equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight for less than 300 hours per year.

h) The following information pertaining to all valves subject to the requirements of Section 725.957(g) and (h) must be recorded in a log that is kept in the facility operating record:

1) A list of identification numbers for valves that are designated as unsafe to monitor, an explanation for each valve stating why the valve is unsafe to monitor, and the plan for monitoring each valve; and

2) A list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the planned schedule for monitoring each valve.

i) The following information must be recorded in the facility operating record for valves complying with Section 725.962:

1) A schedule of monitoring; and

2) The percent of valves found leaking during each monitoring period.

j) The following information must be recorded in a log that is kept in the facility operating record:

1) Criteria required in Sections 725.952(d)(5)(B) and 725.953(e)(2) and an explanation of the criteria; and

2) Any changes to these criteria and the reasons for the changes.

k) The following information must be recorded in a log that is kept in the facility operating record for use in determining exemptions, as provided in Section 725.950 and other specific Subparts:

1) An analysis determining the design capacity of the hazardous waste management unit;

2) A statement listing the hazardous waste influent to and effluent from each hazardous waste management unit subject to the requirements in Sections 725.952 through 725.960 and an analysis determining whether these hazardous wastes are heavy liquids; and

3) An up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in Sections 725.952 through 725.960. The record must include supporting documentation, as required by Section 725.963(d)(3), when application of the knowledge of the nature of the hazardous wastestream or the process by which it was produced is used. If the owner or operator takes any action (e.g., changing the process that produced the waste) that could result in an increase in the total organic content of the waste contained in or contacted by equipment determined not to be subject to the requirements in Sections 725.952 through 725.960, then a new determination is required.

l) Records of the equipment leak information required by subsection (d) and the operating information required by subsection (e) need be kept only three years.

m) The owner or operator of any facility with equipment that is subject to this Subpart and to federal regulations at 40 CFR 60, 61, or 63 may elect to determine compliance with this Subpart BB by documentation of compliance either pursuant to Section 725.964 or by documentation of compliance with the regulations at 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), pursuant to the relevant provisions of 40 CFR 60, 61, or 63, each incorporated by reference in 35 Ill. Adm. Code 720.111(b). The documentation of compliance under the regulation at 40 CFR 60, 61, or 63 must be kept with or made readily available with the facility operating record.

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

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

##### Section 725.980 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 that are subject to Subpart I, J, or K ~~of this Part~~, except as Section 725.101 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 was 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 m<sup>3</sup> (3.5 ft<sup>3</sup> 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 pursuant to the corrective action authorities of RCRA sections 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 pursuant to 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 pursuant to 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). 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 725.985(i), except as provided in Section 725.983(c)(5); and

8) A tank that has a process vent, as defined in 35 Ill. Adm. Code 725.931.

c) This subsection (c) corresponds with 40 CFR 265.1080(c), which requires incorporation of requirements of Subpart CC of 35 Ill. Adm. Code 724 into a permit issued prior to a date long past and compliance with this Subpart CC until the permit issues. This statement maintains structural consistency with the corresponding federal rules. ~~For the owner and operator of a facility subject to this Subpart CC that has received a final RCRA permit prior to December 6, 1996, the following requirements apply:~~

~~1) The requirements of Subpart CC of 35 Ill. Adm. Code 724 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.~~

~~2) Until the date when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705, the owner and operator is subject to the requirements of this Subpart CC.~~

d) The requirements of this Subpart CC, except for the recordkeeping requirements specified in Section 725.990(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, "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 725.990(i), explaining why an undue safety hazard would be created if air emission controls specified in Sections 725.985 through 725.988 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~~; and

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 42 Ill. Reg.           , effective           )

#### Section 725.981 Definitions

As used in this Subpart CC and in 35 Ill. Adm. Code 724, all terms not defined herein will have the meanings given to them in section 1004 of

the federal Resource Conservation and Recovery Act ~~(42 USC 6903)~~, incorporated by reference in 35 Ill. Adm. Code 720.111, and 35 Ill. Adm. Code 720 through 728.

"Average volatile organic concentration" or "average VO concentration" means the mass-weighted average volatile organic concentration of a hazardous waste, as determined in accordance with the requirements of Section 725.984.

"Closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover so that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

"Continuous seal" means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

"Cover" means a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, and gauge wells) that are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is used. A cover may be a separate piece of equipment that can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

"Enclosure" means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

"External floating roof" means a pontoon-type or double-deck type cover that rests on the surface of a hazardous waste being managed in a tank with no fixed roof.

"Fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

"Floating membrane cover" means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

"Floating roof" means a cover consisting of a double-deck, pontoon single-deck, or internal floating cover that rests upon and is supported by the material being contained, and is equipped with a continuous seal.

"Hard-piping" means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

"In light material service" means that the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20° C ~~20°C~~ (1.2 inches H<sub>2</sub>O at 68° ~~F-68°F~~); and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20° C ~~20°C~~ (1.2 inches H<sub>2</sub>O at 68° ~~F-68°F~~) is equal to or greater than 20 percent by weight.

"Internal floating roof" means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

"Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof, continuously around the circumference of the tank.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. A failure that is caused in part by poor maintenance or careless operation is not a malfunction.

"Maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Subpart CC, maximum organic vapor pressure is determined using the procedures specified in Section 725.984(c).

"Metallic shoe seal" means a continuous seal that is constructed of metal sheets that are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and which is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

"No detectable organic emissions" means no escape of organics to the atmosphere, as determined using the procedure specified in Section 725.984(d).

"Point of waste origination" means as follows:

When the facility owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste, as defined in 35 Ill. Adm. Code 721.

BOARD NOTE: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the federal Clean Air Act in 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), and 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

When the facility owner and operator are not the generator of the hazardous waste, "point of waste origination" means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

"Point of waste treatment" means the point where a hazardous waste to be treated in accordance with Section 725.983(c)(2) exits the treatment process. Any waste determination must be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

"Safety device" means a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device that functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Subpart CC, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on 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.

"Single-seal system" means a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

"Vapor-mounted seal" means a continuous seal that is mounted so that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.

"Volatile organic concentration" or "VO concentration" means the fraction by weight of organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw), as determined by direct measurement or by knowledge of the waste, in accordance with the requirements of Section 725.984. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25° C (77° F) must be included. Appendix F ~~of this Part~~ presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

"Waste determination" means performing all applicable procedures in accordance with the requirements of Section 725.984 to determine whether a hazardous waste meets standards specified in this Subpart CC. Examples of a waste determination include performing the procedures in accordance with the requirements of Section 725.984 to determine the average VO concentration of a hazardous waste at the point of waste origination, determining the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste, the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards, or determining the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

"Waste stabilization process" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids Test) 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). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification". This does not include the addition of absorbent materials to the surface of a waste to absorb free liquid without mixing, agitation, or subsequent curing.

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

#### Section 725.982 Schedule for Implementation of Air Emission Standards

a) This subsection (a) corresponds with 40 CFR 265.1082(a), which required compliance before dates long past. This statement maintains structural consistency with the corresponding federal rules. ~~An owner or operator of a facility in existence on December 6, 1996 and subject to Subpart I, J, or K of this Part must meet the following requirements:~~

- ~~1) The owner or operator must install and begin operation of all control equipment required to comply with this Subpart CC and complete modifications of production or treatment processes to satisfy exemption criteria in accordance with Section 725.983(c) by December 6, 1996, except as provided in subsection (a)(2) of this Section; and~~
- ~~2) When control equipment or waste management units required to comply with this Subpart CC cannot be installed and in operation or modifications of production or treatment processes to satisfy exemption~~

~~criteria in accordance with Section 725.983(c) cannot be completed by December 6, 1996, the owner or operator must do the following:~~

- ~~A) Install and begin operation of the control equipment and waste management units, and complete modifications of production or treatment processes as soon as possible but no later than December 8, 1997;~~
- ~~B) Prepare an implementation schedule that includes the following information: specific calendar dates for award of contracts or issuance of purchase orders for the control equipment, waste management units, and production or treatment process modifications; the dates of initiation of on site installation of the control equipment, or waste management units, and modifications of production or treatment processes; the dates of completion of the control equipment or waste management unit installation, and production or treatment process modifications; and the dates of performance of testing to demonstrate that the installed equipment or waste management units, and modified production or treatment processes meet the applicable standards of this Subpart CC;~~
- ~~C) For a facility subject to the recordkeeping requirements of Section 725.173, the owner or operator must enter the implementation schedule specified in subsection (a) (2) (B) of this Section in the operating record no later than December 6, 1996; and~~
- ~~D) For a facility not subject to Section 725.173 of this Section, the owner or operator must enter the implementation schedule specified in subsection (a) (2) (B) of this Section in a permanent, readily available file located at the facility no later than December 6, 1996.~~

b) An owner or operator of a facility or unit in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to Subpart I, J, or K ~~of this Part~~ must meet the following requirements:

1) The owner or operator must install and begin operation of all control equipment required to comply with this Subpart CC and complete modifications of production or treatment processes to satisfy exemption criteria of Section 725.983(c) by the effective date of the amendment, except as provided in subsection (b) (2) ~~of this Section~~.

2) When control equipment or waste management units required to comply with this Subpart CC cannot be installed and begin operation or when modifications of production or treatment processes to satisfy the exemption criteria of Section 725.983(c) cannot be completed by the effective date of the amendment, the owner or operator must undertake the following actions:

A) Install and begin operation of the control equipment or waste management unit and complete modification of production or treatment processes as soon as possible, but no later than 30 months after the effective date of the amendment; and

B) Maintenance of implementation schedule.

i) For facilities subject to the recordkeeping requirements of Section 725.173, enter and maintain the implementation schedule specified in subsection (a) (2) (B) ~~of this Section~~ in the operating record no later than the effective date of the amendment, or

ii) For facilities not subject to Section 725.173, the owner or operator must enter and maintain the implementation schedule specified in subsection (a) (2) (B) ~~of this Section~~ in a permanent, readily available file located at the facility site no later than the effective date of the amendment.

c) The owner or operator of a facility or unit that becomes newly subject to the requirements of this Subpart CC ~~after December 8, 1997~~ due to an action other than those described in subsection (b) ~~of this Section~~ must comply with all applicable requirements immediately (i.e., the owner or operator must have control devices installed and operating on the date the facility or unit becomes subject to the requirements of this Subpart CC; the 30-month implementation schedule does not apply to the owner or operator of such a facility).

d) This subsection (d) corresponds with 40 CFR 265.1082(d), which allowed extension of a long-~~east~~past compliance date. This statement maintains structural consistency with the federal rule. ~~The Board will grant an adjusted standard pursuant to Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104 that extends the implementation date for control equipment at a facility to a date later than December 8, 1997 when the facility owner or operator proves the following:~~

- ~~1) That special circumstances beyond the facility owner's or operator's control have delayed or will delay installation or operation of control equipment; and~~
- ~~2) That the owner or operator has made all reasonable and prudent attempts to comply with the requirements of this Subpart CC.~~

(Source: Amended at 42 Ill. Reg. ~~—~~, effective \_\_\_\_\_)

#### Section 725.983 Standards: General

a) This Section applies to the management of hazardous waste in tanks, surface impoundments, and containers subject to this Subpart CC.

b) The owner or operator must control air pollutant emissions from each hazardous waste management unit in accordance with the standards specified in Sections 725.985 through 725.988, as applicable to the hazardous waste management unit, except as provided for in subsection (c).

c) A tank, surface impoundment, or container is exempted from standards specified in Sections 725.985 through 725.988, provided that all hazardous waste placed in the waste management unit is one of the following:

1) A tank, surface impoundment, or container for which all hazardous waste entering the unit has an average VO concentration at the point of waste origination of less than 500 parts per million by weight (ppmw). The average VO concentration must be determined by the procedures specified in Section 725.984(a). The owner or operator must review and update, as necessary, this determination at least once every 12 months following the date of the initial determination for the hazardous waste streams entering the unit;

2) A tank, surface impoundment, or container for which the organic content of all the hazardous waste entering the waste management unit has been reduced by an organic destruction or removal process that achieves any one of the following conditions:

A) The process removes or destroys the organics contained in the hazardous waste to such a level that the average VO concentration of the hazardous waste at the point of waste treatment is less than the exit concentration limit (Ct) established for the process. The average VO concentration of the hazardous waste at the point of waste treatment and the exit concentration limit for the process must be determined using the procedures specified in Section 725.984(b);

B) The process removes or destroys the organics contained in the hazardous waste to such a level that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the average VO concentration of the hazardous waste at the point of waste treatment is less than 100 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste treatment must be determined using the procedures specified in Section 725.984(b);

C) The process removes or destroys the organics contained in the hazardous waste to such a level that the actual organic mass removal rate (MR) for the process is equal to or greater than the required organic mass removal rate (RMR) established for the process. The required organic mass removal rate and the actual organic mass removal rate for the process must be determined using the procedures specified in Section 725.984(b);

D) The process is a biological process that destroys or degrades the organics contained in the hazardous waste so that either of the following conditions is met:

i) The organic reduction efficiency (R) for the process is equal to or greater than 95 percent, and the organic biodegradation efficiency (R<sub>bio</sub>) for the process is equal to or greater than 95 percent. The organic reduction efficiency and the organic biodegradation efficiency for the process must be determined using the procedures specified in Section 725.984(b); and

ii) The total actual organic mass biodegradation rate (MR<sub>bio</sub>) for all hazardous waste treated by the process is equal to or greater than the

required organic mass removal rate (RMR). The required organic mass removal rate and the actual organic mass biodegradation rate for the process must be determined using the procedures specified in Section 725.984 (b) ;

E) The process is one that removes or destroys the organics contained in the hazardous waste and meets all of the following conditions:

i) From the point of waste origination through the point where the hazardous waste enters the treatment process, the hazardous waste is continuously managed in waste management units that use air emission controls in accordance with the standards specified in Section 725.985 through Section 725.988, as applicable to the waste management unit;

ii) From the point of waste origination through the point where the hazardous waste enters the treatment process, any transfer of the hazardous waste is accomplished through continuous hard-piping or other closed system transfer that does not allow exposure of the waste to the atmosphere;

BOARD NOTE: The USEPA considers a drain system that meets the requirements of federal subpart RR of 40 CFR 63 (National Emission Standards for Individual Drain Systems) to be a closed system.

iii) The average VO concentration of the hazardous waste at the point of waste treatment is less than the lowest average VO concentration at the point of waste origination determined for each of the individual hazardous waste streams entering the process or 500 ppmw, whichever value is lower. The average VO concentration of each individual hazardous waste stream at the point of waste origination must be determined using the procedures specified in Section 725.984(a). The average VO concentration of the hazardous waste at the point of waste treatment must be determined using the procedures specified in Section 725.984 (b) ;

F) A process that removes or destroys the organics contained in the hazardous waste to a level such that the organic reduction efficiency (R) for the process is equal to or greater than 95 percent and the owner or operator certifies that the average VO concentration at the point of waste origination for each of the individual waste streams entering the process is less than 10,000 ppmw. The organic reduction efficiency for the process and the average VO concentration of the hazardous waste at the point of waste origination must be determined using the procedures specified in Sections 725.984(b) and 725.984(a), respectively;

G) A hazardous waste incinerator for which either of the following conditions is true:

i) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart O of 35 Ill. Adm. Code 724; or

ii) The owner or operator has designed and operates the incinerator in accordance with the interim status requirements of Subpart ~~O-of-this-Part~~;

H) A boiler or industrial furnace for which either of the following conditions is true:

i) The owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements the requirements of Subpart H of 35 Ill. Adm. Code 726; or

ii) The owner or operator has designed and operates the industrial furnace or incinerator in accordance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726; and

I) For the purpose of determining the performance of an organic destruction or removal process in accordance with the conditions in each of subsections (c)(2)(A) through (c)(2)(F), the owner or operator must account for VO concentrations determined to be below the limit of detection of the analytical method by using the following VO concentration:

i) If Reference 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), is used for the analysis, one-half the blank value determined in the method at Section 4.4 of Reference Method 25D or a value of 25 ppmw, whichever is less; and

ii) If any other analytical method is used, 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25 ° C;

3) A tank or surface impoundment used for biological treatment of hazardous waste in accordance with the requirements of subsection (c)(2)(D);

4) A tank, surface impoundment, or container for which all hazardous waste placed in the unit fulfills either of the following two conditions:

A) It meets the numerical concentration limits for organic hazardous constituents, applicable to the hazardous waste, as specified in Table T to 35 Ill. Adm. Code 728; or

B) The organic hazardous constituents in the waste have been treated by the treatment technology established by USEPA for the waste, as set forth in 35 Ill. Adm. Code 728.142(a), or treated by an equivalent

method of treatment approved by the Agency pursuant to 35 Ill. Adm. Code 728.142(b); or

5) A tank used for bulk feed of hazardous waste to a waste incinerator, and all of the following conditions are met:

A) The tank is located inside an enclosure vented to a control device that is designed and operated in accordance with all applicable requirements specified under federal subpart FF of 40 CFR 61 (National Emission Standards for Benzene Waste Operations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams (11 tons) per year;

B) The enclosure and control device serving the tank were installed and began operation prior to November 25, 1996; and

C) The enclosure is 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 or electrical equipment; or to direct air flow into the enclosure. The owner or operator must perform the verification procedure for the enclosure as specified in Section 5.0 of "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" annually.

d) The Agency may at any time perform or request that the owner or operator perform a waste determination for a hazardous waste managed in a tank, surface impoundment, or container that is exempted from using air emission controls under the provisions of this Section as follows:

1) The waste determination for average VO concentration of a hazardous waste at the point of waste origination must be performed using direct measurement in accordance with the applicable requirements of Section 725.984(a). The waste determination for a hazardous waste at the point of waste treatment must be performed in accordance with the applicable requirements of Section 725.984(b);

2) In performing a waste determination pursuant to subsection (d)(1), the sample preparation and analysis must be conducted as follows:

A) In accordance with the method used by the owner or operator to perform the waste analysis, except in the case specified in subsection (d)(2)(B); and

B) If the Agency determines that the method used by the owner or operator was not appropriate for the hazardous waste managed in the

tank, surface impoundment, or container, then the Agency may choose an appropriate method;

3) Where the owner or operator is requested to perform the waste determination, the Agency may elect to have an authorized representative observe the collection of the hazardous waste samples used for the analysis;

4) Where the results of the waste determination performed or requested by the Agency do not agree with the results of a waste determination performed by the owner or operator using knowledge of the waste, then the results of the waste determination performed in accordance with the requirements of subsection (d)(1) must be used to establish compliance with the requirements of this Subpart CC; and

5) Where the owner or operator has used an averaging period greater than one hour for determining the average VO concentration of a hazardous waste at the point of waste origination, the Agency may elect to establish compliance with this Subpart CC by performing or requesting that the owner or operator perform a waste determination using direct measurement, based on waste samples collected within a 1-hour period, as follows:

A) The average VO concentration of the hazardous waste at the point of waste origination must be determined by direct measurement in accordance with the requirements of Section 725.984(a);

B) Results of the waste determination performed or requested by the Agency showing that the average VO concentration of the hazardous waste at the point of waste origination is equal to or greater than 500 ppmw must constitute noncompliance with this Subpart CC, except in a case as provided for in subsection (d)(5)(C); and

C) Where the average VO concentration of the hazardous waste at the point of waste origination previously has been determined by the owner or operator using an averaging period greater than one hour to be less than 500 ppmw but because of normal operating process variations the VO concentration of the hazardous waste determined by direct measurement for any given 1-hour period may be equal to or greater than 500 ppmw, information that was used by the owner or operator to determine the average VO concentration of the hazardous waste (e.g., test results, measurements, calculations, and other documentation) and recorded in the facility records in accordance with the requirements of Sections 725.984(a) and 725.990 must be considered by the Agency together with the results of the waste determination performed or requested by the Agency in establishing compliance with this Subpart CC.

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

Section 725.984 Waste Determination Procedures

a) Determination of Volatile Organic (VO) Concentration 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), 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), or by knowledge of the waste, as specified in subsection (a)(4).

3) Direct Measurement.

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 Reference 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), 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 Reference 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) 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). 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. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factors (fm25D) approved in writing by the Agency. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) 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 ( $\bar{C}_i$ ) 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) and the following equation:

Where:

= 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) (i.e., the average of the four or more samples specified in subsection (a)(3)(B)(ii)), in ppmw.

ii) For the purpose of determining  $C_i$ , for individual waste samples analyzed in accordance with subsection (a)(3)(C), 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).

E) Provided that the test method is appropriate for the waste as required under subsection (a)(3)(C), 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) 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 Reference 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 Reference 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) 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.

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 Reference 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 (fm25D).

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), 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).

b) Determination of VO Concentration at the Point of Waste Treatment.

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).

3) Procedure for Determination of VO ~~of a hazardous waste at the point of waste treatment~~ Concentration.

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 Reference Method 25D.

iv) Sufficient information, as specified in the "site sampling plan" required under subsection (a) (3) (B) (iii), 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 Reference 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) at 25 ° C (77 ° 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. 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. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factor (fm25D) approved in writing by the Agency. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) 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  $1.8 \times 10^{-6}$  atmospheres/gram-mole/m<sup>3</sup>) 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 ( ) on a mass-weighted basis must be calculated by using the results for all samples analyzed in accordance with subsection (b)(3)(C) and the following equation:

Where:

= 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; ~~and  $C_i$  and  $C_i$~~  = Measured VO concentration of waste determinations " $i$ ", as determined in accordance with the requirements of subsection (b)(3)(C) (i.e., the average of the four or more samples specified in subsection (b)(3)(B)(ii)), in ppmw.

E) Provided that the test method is appropriate for the waste as required under subsection (b)(3)(C), 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 for Determination of Exit Concentration Limit ( $C_t$ ).

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), 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), 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). The exit concentration limit ( $C_t$ ) must be calculated by using the results determined for each individual hazardous waste stream and the following equation:

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);  ~~$y$~~   $y$  = 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);  $m$  = 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 " $y_{\tau}$ ", in kg/yr; and  $\bar{a}_{nx}$  = Average VO concentration of hazardous waste stream "x" at the point of waste origination, as determined in accordance with the requirements of subsection (a), in ppmw.

5) Procedure for Determination of Organic Reduction Efficiency (R).

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), 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). 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).

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) and the following equations:

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 " $j_{\tau}$ ", in kg/hr;  $Q_{aj}$  = Average mass quantity of waste exiting the process during run " $j_{\tau}$ ", in kg/hr;  $\bar{a}_{nj}$  = Average VO concentration of hazardous waste exiting the process during run " $j_{\tau}$ ", as determined in accordance with the requirements of subsection (b) (3), in ppmw; and  $\bar{a}_{nx}$  = Average VO concentration of hazardous waste entering the process during run " $j_{\tau}$ ", as determined in accordance with the requirements of subsection (a) (3), 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) and the following equation:

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), in kg/hr; ~~and  $E_a$~~  and  $E_a$  =

Waste volatile organic mass flow exiting the process, as determined in accordance with the requirements of subsection (b) (5) (D), in kg/hr.

6) Procedure for Determination of Organic Biodegradation Efficiency ( $R_{bio}$ ).

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:

Where:

$R_{bio}$  = Organic biodegradation efficiency, in percent; ~~and  $F_{bio}$~~  and  $F_{bio}$  = Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b) (6) (A).

7) Procedure for Determination of Required Organic Mass Removal Rate (RMR).

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).

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:

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);  $n$  = 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 m<sup>3</sup>/hr;  $k_y$  = Density of hazardous waste stream "y", in kg/m<sup>3</sup>; and  $\bar{c}_y$  = Average VO concentration of hazardous waste stream "y" at the point of waste origination, as determined in accordance with the requirements of subsection (a), in ppmw.

8) Procedure for Determination of Actual Organic Mass Removal Rate (MR).

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).

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) and the following equation:

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), in kg/hr; and  $E_a$  = Waste volatile organic mass flow exiting the process, as determined in accordance with the requirements of subsection (b) (5) (D), in kg/hr.

9) Procedure for Determination of Actual Organic Mass Biodegradation Rate (MR<sub>bio</sub>).

A) The actual organic mass biodegradation rate (MR<sub>bio</sub>) 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).

C) The fraction of organic biodegraded (Fbio) must be determined using the procedure specified in appendix C to 40 CFR 63 (Determination of the Fraction Biodegraded (Fbio) in a Biological Treatment Unit), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

D) The actual organic mass biodegradation rate (MRbio) 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), respectively, and the following equation:

Where:

MRbio = Actual organic mass biodegradation rate, in kg/hr; Eb = Waste organic mass flow entering the process, as determined in accordance with the requirements of subsection (b)(5)(D), in kg/hr; ~~and Fbio =~~ Fbio =

Fraction of organic biodegraded, as determined in accordance with the requirements of subsection (b)(9)(C).

c) Procedure for Determination of VO 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), or knowledge of the waste, as specified by subsection (c)(4), 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 VO.

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 Reference 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) Reference 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 Reference 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 Reference Method 21, except the instrument response factor criteria in

Section 3.1.2(a) of Reference 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 Reference 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 Reference 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 Reference Method 21. If the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface must be sampled. If 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). 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 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.986 Standards: Surface Impoundments

a) The provisions of this Section apply to the control of air pollutant emissions from surface impoundments for which Section 725.983(b) of this Subpart CC references the use of this Section for such air emission control.

b) The owner or operator must control air pollutant emissions from the surface impoundment by installing and operating either of the following:

1) A floating membrane cover in accordance with the provisions specified in subsection (c) ~~of this Section~~; or

2) A cover that is vented through a closed-vent system to a control device in accordance with the requirements specified in subsection (d) ~~of this Section~~.

c) The owner or operator that controls air pollutant emissions from a surface impoundment using a floating membrane cover must meet the requirements specified in subsections (c) (1) through (c) (3) ~~of this Section~~.

1) The surface impoundment must be equipped with a floating membrane cover designed to meet the following specifications:

A) The floating membrane cover must be designed to float on the liquid surface during normal operations and form a continuous barrier over the entire surface area of the liquid;

B) The cover must be fabricated from a synthetic membrane material that is either of the following:

i) High density polyethylene (HDPE) with a thickness no less than 2.5 millimeters (mm) (0.10 inch); or

ii) A material or a composite of different materials determined to have both organic permeability properties that are equivalent to those of the material listed in subsection (c) (1) (B) (i) ~~of this Section~~ and chemical and physical properties that maintain the material integrity for the intended service life of the material;

C) The cover must be installed in a manner such that there are no visible cracks, holes, gaps, or other open spaces between cover section seams or between the interface of the cover edge and its foundation mountings;

D) Except as provided for in subsection (c) (1) (E) ~~of this Section~~, each opening in the floating membrane cover must be equipped with a closure device so designed as to operate 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;

E) The floating membrane cover may be equipped with one or more emergency cover drains for removal of stormwater. Each emergency cover drain must be equipped with a slotted membrane fabric cover that covers

at least 90 percent of the area of the opening or a flexible fabric sleeve seal; and

F) The 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 closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of any contact with the liquid and its vapor managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the floating membrane cover is installed.

2) Whenever a hazardous waste is in the surface impoundment, the floating membrane cover must float on the liquid and each closure device must be secured in the closed position, except as follows:

A) Opening of closure devices or removal of the cover is allowed at the following times:

i) To provide access to the surface impoundment 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 surface impoundment, 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 replace the cover and secure the closure device in the closed position, as applicable; or

ii) To remove accumulated sludge or other residues from the bottom of surface impoundment; 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 the floating membrane cover in accordance with the following procedures:

A) The floating membrane cover 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 cover section seams or between the interface of the cover edge and its foundation mountings; 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 floating membrane cover and its closure devices on or before the date that the surface impoundment 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 (g) ~~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 (f) ~~of this Section~~; and

D) The owner or operator must maintain a record of the inspection in accordance with the requirements specified in Section 725.990(c).

d) The owner or operator that controls air pollutant emissions from a surface impoundment using a cover vented to a control device must meet the requirements specified in subsections (d)(1) through (d)(3) ~~of this Section~~.

1) The surface impoundment must be covered by a cover and vented directly through a closed-vent system to a control device in accordance with the following requirements:

A) The cover and its closure devices must be designed to form a continuous barrier over the entire surface area of the liquid in the surface impoundment;

B) Each opening in the cover not vented to the control device must be equipped with a closure device. If the pressure in the vapor headspace underneath the cover is less than atmospheric pressure when the control device is operating, the closure devices must be designed to operate such 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 cover 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 using the procedure specified in Section 725.984(d);

C) The cover 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 cover and closure devices throughout their intended service life. Factors to be considered when selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of any contact with the liquid or its vapors managed in the surface impoundment; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the surface impoundment on which the cover 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 surface impoundment, the cover must be installed with each closure device secured in the closed position and the vapor headspace underneath the cover 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 cover is allowed at the following times:

i) To provide access to the surface impoundment 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 surface impoundment, 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 surface impoundment; or

ii) To remove accumulated sludge or other residues from the bottom of the surface impoundment; 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 surface impoundment cover 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 cover section seams or between the interface of the cover edge and its foundation mountings; 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 surface impoundment 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 (g) ~~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 (f) ~~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(c).

e) The owner or operator must transfer hazardous waste to a surface impoundment subject to this Section in accordance with the following requirements:

1) Transfer of hazardous waste, except as provided in subsection (e)(2) ~~of this Section~~, to the surface impoundment from another surface impoundment subject to this Section or from a tank subject to Section 725.985 must be conducted using continuous hard-piping or another closed system that does not allow exposure of the 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 (e)(1) ~~of this Section~~ do not apply when transferring a hazardous waste to the surface impoundment 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); or

C) The hazardous waste meets the requirements of Section 725.983(c)(4).

f) The owner or operator must repair each defect detected during an inspection performed in accordance with the requirements of subsection (c)(3) or (d)(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 (f)(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 surface impoundment and no alternative capacity is available at the site to accept the hazardous waste normally managed in the surface impoundment. 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.

g) 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 in the case when inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions. In this case, the owner or operator may designate the cover as an "unsafe to inspect and monitor cover" and comply with all of the following requirements:

1) Prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required; and

2) 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.

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

#### Section 725.988 Standards: Closed-Vent Systems and Control Devices

a) This Section applies to each closed-vent system and control device installed and operated by the owner or operator to control air emissions in accordance with standards of this Subpart CC.

b) The closed-vent system must meet the following requirements:

1) The closed-vent system must route the gases, vapors, and fumes emitted from the hazardous waste in the waste management unit to a control device that meets the requirements specified in subsection (c) ~~of this Section~~;

2) The closed-vent system must be designed and operated in accordance with the requirements specified in Section 725.933(j);

3) When the closed-vent system includes bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device, each bypass device must be equipped with either a flow indicator as specified in subsection (b)(3)(A) ~~of this Section~~ or a seal or locking device as specified in subsection (b)(3)(B) ~~of this Section~~. For the purpose of complying with this subsection, low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, spring-loaded pressure relief valves, and other fittings used for safety purposes are not considered to be bypass devices.

A) If a flow indicator is used to comply with this subsection (b)(3), the indicator must be installed at the inlet to the bypass line used to divert gases and vapors from the closed-vent system to the atmosphere at a point upstream of the control device inlet. For the purposes of this

subsection, a flow indicator means a device that indicates the presence of either gas or vapor flow in the bypass line.

B) If a seal or locking device is used to comply with this subsection (b)(3), the device must be placed on the mechanism by which the bypass device position is controlled (e.g., valve handle or damper lever) when the bypass device is in the closed position such that the bypass device cannot be opened without breaking the seal or removing the lock.

Examples of such devices include, but are not limited to, a car-seal or a lock-and-key configuration valve. The owner or operator must visually inspect the seal or closure mechanism at least once every month to verify that the bypass mechanism is maintained in the closed position; and

4) The closed-vent system must be inspected and monitored by the owner or operator in accordance with the procedure specified in Section 725.933(k).

c) The control device must meet the following requirements:

1) The control device must be one of the following devices:

A) A control device designed and operated to reduce the total organic content of the inlet vapor stream vented to the control device by at least 95 percent by weight;

B) An enclosed combustion device designed and operated in accordance with the requirements of Section 725.933(c); or

C) A flare designed and operated in accordance with the requirements of Section 725.933(d);

2) The owner or operator that elects to use a closed-vent system and control device to comply with the requirements of this Section must comply with the requirements specified in subsections (c)(2)(A) through (c)(2)(G) ~~of this Section~~.

A) Periods of planned routine maintenance of the control device, during which the control device does not meet the specifications of subsection (c)(1)(A), (c)(1)(B), or (c)(1)(C) ~~of this Section~~, as applicable, must not exceed 240 hours per year.

B) The specifications and requirements in subsections (c)(1)(A), (c)(1)(B), and (c)(1)(C) ~~of this Section~~ for control devices do not apply during periods of planned routine maintenance.

C) The specifications and requirements in subsections (c)(1)(A), (c)(1)(B), and (c)(1)(C) ~~of this Section~~ for control devices do not apply during a control device system malfunction.

D) The owner or operator must demonstrate compliance with the requirements of subsection (c)(2)(A) ~~of this Section~~ (i.e., planned

routine maintenance of a control device, during which the control device does not meet the specifications of subsection (c) (1) (A), (c) (1) (B), or (c) (1) (C) ~~of this Section~~, as applicable, must not exceed 240 hours per year) by recording the information specified in Section 725.990(e) (1) (E).

E) The owner or operator must correct control device system malfunctions as soon as practicable after their occurrence in order to minimize excess emissions of air pollutants.

F) The owner or operator must operate the closed-vent system so that gases, vapors, or fumes are not actively vented to the control device during periods of planned maintenance or control device system malfunction (i.e., periods when the control device is not operating or not operating normally), except in cases when it is necessary to vent the gases, vapors, or fumes to avoid an unsafe condition or to implement malfunction corrective actions or planned maintenance actions;

3) The owner or operator using a carbon adsorption system to comply with subsection (c) (1) ~~of this Section~~ must operate and maintain the control device in accordance with the following requirements:

A) Following the initial startup of the control device, all activated carbon in the control device must be replaced with fresh carbon on a regular basis in accordance with the requirements of Section 725.933(g) or 725.933(h).

B) All carbon that is a hazardous waste and that is removed from the control device must be managed in accordance with the requirements of Section 725.933(m), regardless of the average volatile organic concentration of the carbon;

4) An owner or operator using a control device other than a thermal vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with subsection (c) (1) ~~of this Section~~ must operate and maintain the control device in accordance with the requirements of Section 725.933(i);

5) The owner or operator must demonstrate that a control device achieves the performance requirements of subsection (c) (1) ~~of this Section~~ as follows:

A) An owner or operator must demonstrate using either a performance test, as specified in subsection (c) (5) (C) ~~of this Section~~, or a design analysis, as specified in subsection (c) (5) (D) ~~of this Section~~, the performance of each control device except for the following:

i) A flare;

ii) A boiler or process heater with a design heat input capacity of 44 megawatts or greater;

iii) A boiler or process heater into which the vent stream is introduced with the primary fuel;

iv) A boiler or industrial furnace burning hazardous waste for which the owner or operator has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 and has designed and operates in accordance with the requirements of Subpart H of 35 Ill. Adm. Code 726; or

v) A boiler or industrial furnace burning hazardous waste for which the owner or operator has designed and operates in accordance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726;

B) An owner or operator must demonstrate the performance of each flare in accordance with the requirements specified in Section 725.933(e);

C) For a performance test conducted to meet the requirements of subsection (c)(5)(A) ~~of this Section~~, the owner or operator must use the test methods and procedures specified in Section 725.934(c)(1) through (c)(4);

D) For a design analysis conducted to meet the requirements of subsection (c)(5)(A) ~~of this Section~~, the design analysis must meet the requirements specified in Section 725.935(b)(4)(C); and

E) The owner or operator must demonstrate that a carbon adsorption system achieves the performance requirements of subsection (c)(1) ~~of this Section~~ based on the total quantity of organics vented to the atmosphere from all carbon adsorption system equipment that is used for organic adsorption, organic desorption or carbon regeneration, organic recovery, and carbon disposal;

6) If the owner or operator and the Agency do not agree on a demonstration of control device performance using a design analysis, then the disagreement must be resolved using the results of a performance test performed by the owner or operator in accordance with the requirements of subsection (c)(5)(C) ~~of this Section~~. The Agency may choose to have an authorized representative observe the performance test; and

7) 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 725.933(f)(2) and (k). The readings from each monitoring device required by Section 725.933(f)(2) must be inspected at least once each operating day to check control device operation. Any necessary corrective measures must be immediately implemented to ensure the control device is operated in compliance with the requirements of this Section.

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

## Section 725.989 Inspection and Monitoring Requirements

a) The owner or operator must inspect and monitor air emission control equipment used to comply with this Subpart CC in accordance with the requirements specified in Sections 725.985 through 725.988.

b) The owner or operator must develop and implement a written plan and schedule to perform the inspections and monitoring required by subsection (a) ~~of this Section~~. The owner or operator must incorporate this plan and schedule into the facility inspection plan required under Section 725.115.

(Source: Amended at 42 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 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(1) 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 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART DD: CONTAINMENT BUILDINGS

Section ~~724.1101~~725.1101 Design and Operating Standards

a) All containment buildings must comply with the following design and operating standards:

1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g., precipitation, wind, run on) and to assure containment of managed wastes.

2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b), must be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls. The unit must be designed so that it has sufficient structural strength to prevent collapse or other failure. All surfaces to be in contact with hazardous wastes must be chemically compatible

with those wastes. The containment building must meet the structural integrity requirements established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM). If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet the ~~following criteria:~~following criteria:

A) They provide an effective barrier against fugitive dust emissions under subsection (c) (1) (~~ED~~); and

B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings-:

3) Incompatible hazardous wastes or treatment reagents must not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail-; and

4) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination, or other appropriate means), the owner or operator must include the following+ design features:

1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).

2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building,~~as follows:~~

A) The primary barrier must be sloped to drain liquids to the associated collection system; and

B) Liquids and waste must be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.

3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:

i) It is constructed with a bottom slope of 1 percent or more; and

ii) It is constructed of a granular drainage material with a hydraulic conductivity of  $1 \times 10^{-2}$  cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10^{-5}$  m<sup>2</sup>/sec or more.

B) If treatment is to be conducted in the building, an area in which such treatment will be conducted must be designed to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building.

C) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of Section ~~724.193~~ 725.293(e)(1). In addition, the containment building must meet the requirements of Section ~~724.193~~ 725.293(b) and ~~Sections 724.193(e)(1) and (e)(2)(c)~~ to be an acceptable ~~secondary~~ Secondary containment system for a tank.)

~~4) For existing units other than 90 day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must have done the following:~~

~~A) Provided written notice to USEPA of their request by November 16, 1992. This notification must have described the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;~~

~~B) Responded to any comments from USEPA on these plans within 30 days; and~~

~~C) Fulfilled the terms of the revised plans, if such plans are approved by USEPA.~~

~~e) An owner or operator of a containment building must do the following:~~

c) Owners or operators of all containment buildings must do each of the following:

1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum: do each of the following:

A) ~~Maintain~~It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be ~~release~~released from the primary barrier;

B) ~~Maintain~~It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

C) ~~Take~~It must take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and

D) ~~Take~~It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Reference Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods)~~),~~ incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator~~, etc.~~) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit~~;~~;

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv)~~(2005)~~, USEPA cites "40 CFR part 60, subpart ~~292-292~~". At 57 Fed. Reg. 37217 (~~Aug.~~August 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. While 40 CFR 60.292 of the federal regulations pertains to control of fugitive dust emissions, that provision is limited in its application to glass melting furnaces. The Board has chosen to use the general citation: "40 CFR ~~60-60~~".

2) It must obtain and keep on site a certification by a qualified Professional Engineer that the containment building design meets the requirements of subsections (a) through (c)~~;~~;

3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures:

A) Upon detection of a condition that has ~~led to~~caused a release of hazardous wastes (e.g., upon detection of leakage from the primary barrier) the owner or operator must do the following:

i) Enter a record of the discovery in the facility operating record;

ii) Immediately remove the portion of the containment building affected by the condition from service;

iii) Determine what steps must be taken to repair the containment building, remove any leakage from the secondary collection system, and establish a schedule for accomplishing the cleanup and repairs; and

iv) Within seven days after the discovery of the condition, notify the Agency in writing of the condition, and within 14 working days, provide a written notice to the Agency with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.; and

B) The Agency must review the information submitted, make a determination ~~in accordance with Section 34 of the Act,~~ regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing.; and

C) Upon completing all repairs and cleanup the owner and operator must notify the Agency in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with subsection (c) (3) (A) (iv) .; and

4) ~~It~~ At least once every seven days, it must inspect and record in the facility's operating record, ~~at least once every seven days,~~ data gathered from monitoring and leak detection equipment, ~~as well as the~~ containment building, and the area immediately surrounding the containment building, to detect signs of releases of hazardous waste.

d) For a containment building that contains ~~both areas~~ both with and without secondary containment, the owner or operator must do the following:

1) Design and operate each area in accordance with the requirements enumerated in subsections (a) through (c);

2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment; and

3) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

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

#### Section 725.1102 Closure and Post-Closure Care

a) At closure of a containment building, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless 35 Ill. Adm. Code 721.103(e) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment buildings must meet all of the requirements specified in Subparts G and H ~~of this Part~~.

b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in subsection (a) ~~of this Section~~, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (35 Ill. Adm. Code 725.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a containment building is then considered to be a landfill, and the owner or operator must meet all the requirements for landfills specified in Subparts G and H ~~of this Part~~.

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

#### SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

##### Section 725.1200 Applicability

The requirements of this Subpart EE apply to owners or operators that store munitions and explosive hazardous wastes, except as Section 725.101 provides otherwise.

BOARD NOTE: Depending on explosive hazards, hazardous waste munitions and explosives may also be managed in other types of storage units, including containment buildings (Subpart DD ~~of this Part~~), tanks (Subpart J ~~of this Part~~), or containers (Subpart I ~~of this Part~~); see 35 Ill. Adm. Code 726.305 for storage of waste military munitions.

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

##### Section 725.1201 Design and Operating Standards

a) An owner or operator of a hazardous waste munitions and explosives storage unit must design and operate the unit with containment systems, controls, and monitoring that fulfill each of the following requirements:

1) The owner or operator minimizes the potential for detonation or other means of release of hazardous waste, hazardous constituents, hazardous decomposition products, or contaminated run-off to the soil, groundwater, surface water, and atmosphere;

2) The owner or operator provides a primary barrier, which may be a container (including a shell) or tank, designed to contain the hazardous waste;

3) For wastes stored outdoors, the owner or operator provides that the waste and containers will not be in standing precipitation;

4) For liquid wastes, the owner or operator provides a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area or a vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (e.g., additional containment, such as overpacking or removal from the waste area); and

5) The owner or operator provides monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

b) Hazardous waste munitions and explosives stored under this Subpart EE may be stored in one of the following:

1) Earth-covered magazines. The owner or operator of an earth-covered magazine must fulfill each of the following requirements:

A) The magazine is constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;

B) The magazine is so designed and constructed that it fulfills each of the following requirements:

i) The magazine is of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;

ii) The magazine provides working space for personnel and equipment in the unit; and

iii) The magazine can withstand movement activities that occur in the unit; and

C) The magazine is located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

2) Above-ground magazines. Above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

3) Outdoor or open storage areas. Outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

c) An owner or operator must store hazardous waste munitions and explosives in accordance with a Standard Operating Procedure that specifies procedures which ensure safety, security, and environmental protection. If these procedures serve the same purpose as the security and inspection requirements of Section 725.114, the preparedness and prevention procedures of Subpart ~~C of this Part~~, and the contingency plan and emergency procedures requirements of Subpart ~~D of this Part~~, then the Standard Operating Procedure may be used to fulfill those requirements.

d) An owner or operator must package hazardous waste munitions and explosives to ensure safety in handling and storage.

e) An owner or operator must inventory hazardous waste munitions and explosives at least annually.

f) An owner or operator must inspect and monitor hazardous waste munitions and explosives and their storage units as necessary to ensure explosives safety and to ensure that there is no migration of contaminants out of the unit.

(Source: Amended at 42 Ill. Reg. ~~—~~, effective  
~~\_\_\_\_\_~~)

#### Section 725.1202 Closure and Post-Closure Care

a) At closure of a magazine or unit that stored hazardous waste under this Subpart EE, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in Subparts G and H ~~of this Part~~, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in subsection (a) ~~of this Section~~, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (see 35 Ill. Adm. Code 724.410).

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

Section 725. ~~Appendix~~ APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25~~?~~<sup>o</sup> C)

Compound name CAS No.

Acetaldo1107-89-1 Acetamide60-35-52 Acetylaminofluorene53-96-33 Acetyl-5-hydroxypiperidine3-Acetylpiperidine618-42-81 Acetyl-2-thiourea591-08-2 Acrylamide79-06-1 Acrylic acid79-10-7 Adenine73-24-5 Adipic acid124-04-9 Adiponitrile111-69-3 Alachlor15972-60-8 Aldicarb116-06-3 Ametryn834-12-84 Aminobiphenyl92-67-14 Aminopyridine504-24-5 Aniline62-53-3o-Anisidine90-04-0 Anthraquinone84-65-1 Atrazine1912-24-9 Benzenearsonic acid98-05-5 Benzenesulfonic acid98-11-3 Benzidine92-87-5 Benzo(a)anthracene56-55-3 Benzo(k)fluoranthene207-08-9 Benzoic acid65-85-0 Benzo(g,h,i)perylene191-24-2 Benzo(a)pyrene50-32-8 Benzyl alcohol100-51-6? BHC58-89-9 Bis(2-ethylhexyl)phthalate117-81-7 ~~Bromo~~ ~~chloro~~ ~~methyl~~ ~~acetate~~ Bromoxynil Bromoxynil (3,5-Dibromo-4-hydroxybenzotrile)1689-84-5 Butyric acid107-92-6 Caprolactam (hexahydro-2H-azepin-2-one)105-60-2 Catechol (o-dihydroxybenzene)120-80-9 Cellulose9004-34-6 Cell wall Chlorhydrin (3-Chloro-1,2-propanediol)96-24-2 Chloroacetic acid79-11-82 Chloroacetophenone93-76-5 p-Chloroaniline106-47-8 p-Chlorobenzophenone134-85-0 Chlorobenzilate510-15-6 p-Chloro-m-cresol (6-chloro-m-cresol)59-50-~~73~~ ~~Chloro~~ ~~2,5~~ ~~diketopyrrolidine~~ 272-Chloroethane-1,1-~~diol~~ ~~Chloro~~ ~~1,2~~ ~~ethane~~ diol 15873-56-04-Chlorophenol106-48-9 Chlorophenol polymers (2-chlorophenol & 4-chlorophenol)95-57-8 & 106-48-91-(o-Chlorophenyl)thiourea5344-82-1N-Chlorosuccinimide (1-chloropyrrolidine-2,5-dione)128-09-6 Chrysene218-01-9 Citric acid77-92-9 Creosote8001-58-9m-Cresol108-39-4o-Cresol95-48-7p-Cresol106-44-5 Cresol (mixed isomers)1319-77-34-Cumylphenol27576-86 Cyanide57-12-~~54~~ ~~Cyanomethyl~~ ~~benzoate~~ Diazinon 5Diazinon333-41-5 Dibenzo(a,h)anthracene53-70-3 Dibutylphthalate84-74-22,5-Dichloroaniline (N,N'-dichloroaniline)95-82-92,6-Dichlorobenzonitrile1194-65-62,6-Dichloro-4-nitroaniline99-30-92,5-Dichlorophenol333-41-53,4-Dichlorotetrahydrofuran3511-19 Dichlorvos (DDVP)62-73-7 Diethanolamine111-42-2N,N-Diethylaniline91-66-7 Diethylene glycol111-46-6 Diethylene glycol dimethyl ether (dimethyl Carbitol)111-96-6 Diethylene glycol monobutyl ether (butyl

Carbitol) 112-34-5 Diethylene glycol monoethyl ether acetate (Carbitol acetate) 112-15-2 Diethylene glycol monoethyl ether (Carbitol Cellosolve) 111-90-0 Diethylene glycol monomethyl ether (methyl Carbitol) 111-77-3 N,N'-Diethylhydrazine 1615-80-1 Diethyl (4-methylumbelliferyl) thionophosphate 299-45-6 Diethylphosphorothioate 126-75-0 N,N'-Diethylpropionamide 15299-99-7 Dimethoate 60-51-52, 3-Dimethoxystrychnidin-10-one 357-57-34-Dimethylaminoazobenzene 60-11-77, 12-Dimethylbenz(a)anthracene 57-97-63, 3-Dimethylbenzidine 119-93-7 Dimethylcarbamoyl chloride 79-44-7 Dimethyldisulfide 624-92-0 Dimethylformamide 68-12-21, 1-Dimethylhydrazine 57-14-7 Dimethylphthalate 131-11-3 Dimethylsulfone 67-71-0 Dimethylsulfoxide 67-68-54, 6-Dinitro-o-cresol 534-52-11, 2-Diphenylhydrazine 122-66-7 Dipropylene glycol (1,1'-oxydi-2-propanol) 110-98-5 Endrin 72-20-8 Epinephrine 51-43-4 mono-Ethanolamine 141-43-5 Ethyl carbamate (urethane) 51-79-6 Ethylene glycol 107-21-1 Ethylene glycol monobutyl ether (butyl Cellosolve) 111-76-2 Ethylene glycol monoethyl ether (Cellosolve) 110-80-5 Ethylene glycol monoethyl ether acetate (Cellosolve acetate) 111-15-9 Ethylene glycol monomethyl ether (methyl Cellosolve) 109-86-4 Ethylene glycol monophenyl ether (phenyl Cellosolve) 122-99-6 Ethylene glycol monopropyl ether (propyl Cellosolve) 2807-30-9 Ethylene thiourea (2-imidazolidinethione) 96-45-74-Ethylmorpholine 100-74-33-Ethylphenol 620-17-7 Fluoroacetic acid, sodium salt 62-74-8 Formaldehyde 50-00-0 Formamide 75-12-7 Formic acid 64-18-6 Fumaric acid 110-17-8 Glutaric acid 110-94-1 Glycerin (Glycerol) 56-81-5 Glycidol 556-52-5 Glycinamide 598-41-4 Glyphosate 1071-83-6 Guthion 86-50-0 Hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane) 822-06-0 Hexamethyl phosphoramidate 680-31-9 Hexanoic acid 142-62-1 Hydrazine 302-01-2 Hydrocyanic acid 74-90-8 Hydroquinone 123-31-9 Hydroxy-2-propionitrile (hydracrylonitrile) 109-78-4 Indeno(1,2,3-cd)pyrene 193-39-5 Lead acetate 301-04-2 Lead subacetate (lead acetate, monobasic) 1335-32-6 Leucine 61-90-5 Malathion 121-75-5 Maleic acid 110-16-7 Maleic anhydride 108-31-6 Mesityl oxide 141-79-7 Methane sulfonic acid 75-75-2 Methomyl 16752-77-5 p-Methoxyphenol 150-76-5 Methylacrylate 96-33-32-(Methylamino)acetic acid (sarcosine, N-methylglycine) 107-97-1 Methyl bromochloroacetate 20428-74-4 Methyl-4-(cyanomethyl)benzoate 76469-88-04,4'-Methylene-bis-(2-chloroaniline) 101-14-44,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate) 101-68-84,4'-Methylenedianiline ~~(MDA)~~ 101-77-9 ~~Methylene-diphenylamine~~ ~~(MDA)~~ 595-Methylfurfural 620-02-0 Methylhydrazine 60-34-4 ~~Methyliminoacetic acid~~ ~~Methyl~~ Methyl methane sulfonate 66-27-31 ~~Methyl-2-methoxyaziridine~~ ~~Methylparathion~~ 3Methylparathion 298-00-0 Methyl sulfuric acid (sulfuric acid, dimethyl ester) 77-78-14 Methylthiophenol 106-45-6 Monomethylformamide (N-methylformamide) 123-39-7 Nabam 142-59-6 ~~2a~~-Naphthol 90-15-3 ~~2b~~-Naphthol 135-19-3 ~~2a~~-Naphthylamine 134-32-7 ~~2b~~-Naphthylamine 91-59-8 Neopentyl glycol 126-30-7 Niacinamide 98-92-0 o-Nitroaniline 88-74-4 Nitroglycerin 55-63-02-Nitrophenol 88-75-54-Nitrophenol 100-02-7 N-Nitrosodimethylamine 62-75-9 Nitrosoguanidine 674-81-7 N-Nitroso-n-methylurea 684-93-5 N-Nitrosomorpholine

(4-nitrosomorpholine) 59-89-2 Oxalic acid 144-62-7 Parathion 56-38-2 Pentaerythritol 115-77-5 Phenacetin 62-44-2 Phenol 108-95-2 Phenylacetic acid 103-82-2 m-Phenylene diamine 108-45-2 o-Phenylene diamine 95-54-5 p-Phenylene diamine 106-50-3 Phenyl mercuric acetate 62-38-4 Phorate 298-02-2 Phthalic anhydride 85-44-9 ~~2~~ ~~a~~ Picoline (2-methyl pyridine) 109-06-8 1,3-Propane sulfone 1120-71-4 ~~2~~ ~~3~~ Propiolactone 57-57-8 Propoxur ~~Properur~~ (Baygon) 2-(1-methylethoxy) phenol  
N-~~methyle~~carbamate 114-26-1 ~~Propylene~~ ~~methyl~~carbamate ~~Propylene~~ glycol 57-55-6 Pyrene 129-00-0 Pyridinium bromide 39416-48-3 Quinoline 91-22-5 Quinone (p-benzoquinone) 106-51-4 Resorcinol 108-46-3 Simazine 122-34-9 Sodium acetate 127-09-3 Sodium formate 141-53-7 Strychnine 57-24-9 Succinic acid 110-15-6 Succinimide 123-56-8 Sulfanilic acid 121-47-1 Terephthalic acid 100-21-0 Tetraethyldithiopyrophosphate 3689-24-5 Tetraethylenepentamine 112-57-2 Thiofanox 39196-18-4 Thiosemicarbazide 79-19-6 2,4-Toluenediamine 95-80-7 2,6-Toluenediamine 823-40-5 3,4-Toluenediamine 496-72-0 2,4-Toluene diisocyanate 584-84-9 p-Toluic acid 99-94-5 m-Toluidine 108-44-1 1,1,2-Trichloro-1,2,2-trifluoroethane 76-13-1 Triethanolamine 102-71-6 Triethylene glycol dimethyl ether (2,5,8,11-tetraoxadodecane, 1-~~112-49-2~~ methoxy-2-(2-(2-methoxyethoxy)ethoxy)ethane) ~~112-49-2~~ Tripropylene glycol 24800-44-0 Warfarin 81-81-23,4-Xylenol (3,4-dimethylphenol) 95-65-8

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective

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~~ILLINOIS REGISTER~~

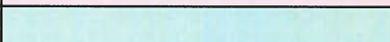
~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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