

ILLINOIS POLLUTION CONTROL BOARD
May 20, 1993

IN THE MATTER OF:)
)
RCRA SUBTITLE D AMENDMENTS) (Identical in Substance Rule) R93-10
)
)

Proposal for Public Comment.

Proposed Order of the Board (by J. Anderson):

The Board is hereby initiating for public comment certain amendments to its nonhazardous waste landfill regulations so as to make them at least as stringent as the USEPA regulations implementing Subtitle D of the Resource Conservation and Recovery Act (RCRA). The USEPA regulations address Municipal Solid Waste Landfill Facilities (MSWLF).

The enabling State legislation, HB 299, contains a new Section 22.40 in the Environmental Protection Act (Act) which mandates Board rulemaking. This mandate requires that the Board adopt regulations pursuant to Section 7.2 of the Act that are identical in substance to regulations adopted by the USEPA to implement Sections 4004 and 4010 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, codified as 42 U.S.C. para. 6944 & 6950). The Board is now starting the "public comment" phase of this rulemaking to expedite the submittal of the amendments, if such action is consistent with the Governor's action on HB 299, to the USEPA for its authorization review well in advance of the federally-imposed deadline of October 9, 1993. Equally important, the Board is also seeking to minimize compliance confusion during the transition period by being in a position to quickly reflect the federal requirements in the Board's existing landfill regulations.

Section 22.40 provides for quick adoption of regulations that are "identical in substance" to federal regulations and that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The federal Subtitle D landfill regulations are found at 40 CFR 258. This rulemaking updates Illinois Nonhazardous Waste Landfill rules to correspond with the major federal rulemaking more fully outlined in the accompanying Opinion.

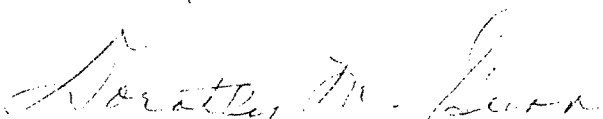
This proposed order will be supported by a proposed opinion to be adopted at a future time. The Board will receive public comment on the proposal for a period of 45 days following its publication in the Illinois Register. The Board hereby directs that the Clerk of the Board cause a Notice of Proposed Amendments

0142-0703

reflecting this repeal be published in the Illinois Register.
The complete text of the proposed rules follows.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted by the Board on the 25th day of May, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution control Board

TITLE 35: ENVIRONMENTAL PROTECTION CONTROL BOARD
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810
 SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section
 810.101 Scope and Applicability
 810.102 Severability
 810.103 Definitions
 810.104 Incorporations by Reference

AUTHORITY: Implementing Sections 5, 21, 21.1, 22 and 22.17, and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1021, 1021.1, 1022, 1022.17 and 1027).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. , effective

NOTE: Capitalization indicates statutory language.

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et. seq.):

"Act" means the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et. seq.

"AGENCY" IS THE ENVIRONMENTAL PROTECTION AGENCY ESTABLISHED BY THE ENVIRONMENTAL PROTECTION ACT. (Section 3.08 of the Act.)

"Admixtures" are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite and sodium silicate.

"Applicant" means the person, submitting an application to the Agency for a permit for a solid waste disposal facility.

"AQUIFER" MEANS SATURATED (WITH GROUNDWATER) SOILS AND GEOLOGIC MATERIALS WHICH ARE SUFFICIENTLY PERMEABLE TO READILY YIELD ECONOMICALLY USEFUL QUANTITIES OF WATER

TO WELLS, SPRINGS, OR STREAMS UNDER ORDINARY HYDRAULIC GRADIENTS and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7453).)

"Bedrock" means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium or glacial drift.

"BOARD" IS THE POLLUTION CONTROL BOARD ESTABLISHED BY THE ACT. (Section 3.04 of the Act.)

"Borrow area" means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways or berms.

"Chemical waste" means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

"Contaminated leachate" means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

"Design Period" means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

"DISPOSAL" MEANS THE DISCHARGE, DEPOSIT, INJECTION, DUMPING, SPILLING, LEAKING OR PLACING OF ANY SOLID WASTE INTO OR ON ANY LAND OR WATER OR INTO ANY WELL SUCH THAT SOLID WASTE OR ANY CONSTITUENT OF THE SOLID WASTE MAY ENTER THE ENVIRONMENT BY BEING EMITTED INTO THE AIR OR DISCHARGED INTO ANY WATERS, INCLUDING GROUNDWATER. (Section 3.08 of the Act.) If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation shall constitute disposal.

"Disturbed areas" means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any

machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds and financial records, that are used to support facts or hypotheses.

"Earth liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

"Existing facility" or "Existing unit" means a facility or unit which is not defined in this Section as a new facility or a new unit.

"EXISTING MSWLF UNIT" MEANS ANY MUNICIPAL SOLID WASTE LANDFILL UNIT THAT HAS RECEIVED HOUSEHOLD WASTE BEFORE OCTOBER 9, 1993. (Section 3.87 of the Act)

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage or disposal operation. All structures used in connection with or to facilitate the waste disposal operation shall be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"Field capacity" means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

"Gas collection system" means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collects and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

"Gas condensate" means the liquid formed as a landfill gas is cooled or compressed.

"Gas venting system" means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

"Geomembranes" means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

"Geotextiles" are permeable manufactured materials used for purposes which include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, collecting and draining liquids and gases beneath the ground surface.

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND WITHIN GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3 of the Illinois Groundwater Protection Act)

"HOUSEHOLD WASTE" MEANS ANY SOLID WASTE (INCLUDING GARBAGE, TRASH, AND SANITARY WASTE IN SEPTIC TANKS) DERIVED FROM HOUSEHOLDS (INCLUDING SINGLE AND MULTIPLE RESIDENCES, HOTELS AND MOTELS, BUNKHOUSES, RANGER STATIONS, CREW QUARTERS, CAMPGROUNDS, PICNIC GROUNDS, AND DAY-USE RECREATION AREAS). (Section 3.89 of the Act)

"Hydraulic barriers" means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to cutoff walls, slurry walls, grout curtains and liners.

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with Section 811.202(b). Such inert wastes shall include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry and concrete (cured for 60 days or more).

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

"LATERAL EXPANSION" MEANS A HORIZONTAL EXPANSION OF THE ACTUAL WASTE BOUNDARIES OF AN EXISTING MSWLF UNIT OCCURRING ON OR AFTER OCTOBER 9, 1993. FOR THE PURPOSES OF THIS SECTION A HORIZONTAL EXPANSION IS ANY AREA WHERE SOLID WASTE IS PLACED FOR THE FIRST TIME DIRECTLY UPON THE BOTTOM LINER OF THE UNIT ON OR AFTER OCTOBER 9, 1993. (Section 3.88 Of the Act)

"Leachate" means liquid that has been or is in direct contact with a solid waste.

"Lift" means an accumulation of waste which is compacted into a unit and over which cover is placed.

"Malodor" means an odor caused by ONE OR MORE CONTAMINANT EMISSIONS INTO THE ATMOSPHERE FROM A FACILITY THAT IS IN SUFFICIENT QUANTITIES AND OF SUCH CHARACTERISTICS AND DURATION AS TO BE described as malodorous and which may be INJURIOUS TO HUMAN, PLANT, OR ANIMAL LIFE, TO HEALTH, OR TO PROPERTY, OR TO UNREASONABLY INTERFERE WITH THE ENJOYMENT OF LIFE OR PROPERTY. (Section 3.02 of the Act (defining "air pollution").)

"MUNICIPAL SOLID WASTE LANDFILL UNIT" OR "MSWLF UNIT" MEANS A CONTIGUOUS AREA OF LAND OR AN EXCAVATION THAT RECEIVES HOUSEHOLD WASTE, AND THAT IS NOT A LAND APPLICATION, SURFACE IMPOUNDMENT, INJECTION WELL, OR ANY PILE OF NONCONTAINERIZED ACCUMULATIONS OF SOLID, NONFLOWING WASTE THAT IS USED FOR TREATMENT OR STORAGE. A MSWLF UNIT MAY ALSO RECEIVE OTHER TYPES OF RCRA SUBTITLE D WASTES, SUCH AS COMMERCIAL SOLID WASTE, NONHAZARDOUS SLUDGE, SMALL QUANTITY GENERATOR WASTE AND INDUSTRIAL SOLID WASTE. SUCH A LANDFILL MAY BE PUBLICLY OR PRIVATELY OWNED OR OPERATED. A MSWLF UNIT MAY BE A NEW MSWLF UNIT, AN EXISTING MSWLF UNIT OR A LATERAL EXPANSION. A SANITARY LANDFILL IS SUBJECT TO REGULATION AS A MSWLF IF IT RECEIVES HOUSEHOLD WASTE. (Section 3.85 of the Act)

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing

pretreatment requirements under the Clean Water Act (33 U.S.C. 1251 et seq.), Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309.Subpart A and 310. "NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act that has not yet accepted any waste as of the effective date of this Part;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act that has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of the effective date of this Part; or

It is a landfill with a unit whose maximum design capacity or lateral extent is increased after the effective date of this Part.

BOARD NOTE: A new unit located in an existing facility shall be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

"NEW MSWLF UNIT" MEANS ANY MUNICIPAL SOLID WASTE LANDFILL UNIT THAT HAS RECEIVED HOUSEHOLD WASTE ON OR AFTER OCTOBER 9, 1993 FOR THE FIRST TIME. (Section 3.86 of the Act)

"One hundred (100) year flood plain" means any land area which is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred (100) year, 24 hour precipitation event" means a precipitation event of 24 hour duration with a probable recurrence interval of once in 100 years.

"Operator" means the person responsible for the operation and maintenance of a solid waste disposal facility.

"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The "owner" is the "operator" if there is no other person who is operating and

maintaining a solid waste disposal facility.

"Perched watertable " means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

"Permit area" means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

"PERSON" IS ANY INDIVIDUAL, PARTNERSHIP, CO-PARTNERSHIP, FIRM, COMPANY, CORPORATION, ASSOCIATION, JOINT STOCK COMPANY, TRUST, ESTATE, POLITICAL SUBDIVISION, STATE AGENCY, OR ANY OTHER LEGAL ENTITY, OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNS. (Section 3.26 of the Act.)

"Professional engineer" means a person who has registered and obtained a seal pursuant to "The Illinois Professional Engineering Act" (Ill. Rev. Stat 1989, ch. 111, par. 5101 et seq.).

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to "The Land Surveyors Act" (Ill. Rev. Stat. 1989, ch. 111, par. 3201 et seq.).

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes which do not meet the definitions of inert or chemical wastes shall be considered putrescible wastes.

"Publicly owned treatment works" or "POTW" means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"RESOURCE CONSERVATION RECOVERY ACT" "RCRA" MEANS THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (P.L. 94-580 Codified as 42 USC. §§ 6901 et seq.) AS AMENDED. (Section 3.90 of the Act)

"Recharge zone" means an area through which water can enter an aquifer.

"Responsible charge," when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

"Salvaging" means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors or cause an unsightly appearance.

"Scavenging" means the removal of materials from a solid waste management facility or unit which is not salvaging.

"Seismic Slope Safety Factor" means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

"Settlement" means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil and adjacent operations involving excavation.

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered

shredded if 90 percent of the waste by dry weight passes a 3 inch sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act and 35 Ill. Adm. Code 813 that is required when one or more of the following changes, considered significant when that change measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit, are planned, occur or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate or final cover;

A decrease in performance, efficiency or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system, or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

"Sole source aquifer" means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974, (42 U.S.C 300h-3).

"Solid Waste" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

"SPECIAL WASTE" MEANS ANY INDUSTRIAL PROCESS WASTE, POLLUTION CONTROL WASTE OR HAZARDOUS WASTE, EXCEPT AS DETERMINED PURSUANT TO SECTION 22.9 OF THE ACT and 35 Ill. Adm. Code 808. (Section 3.45 of the Act.)

"Static Safety Factor" means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

"Surface impoundment" means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

"Twenty-five (25) year, 24 hour precipitation event" means a precipitation event of 24 hour duration with a probable recurrence interval of once in 25 years.

"Uppermost aquifer" means the first geologic formation above or below the bottom elevation of a constructed

liner or wastes, where no liner is present, which is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which non-containerized masses of solid, non flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration shall include photographs, records or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

"Waste stabilization" means any chemical, physical or thermal treatment of waste, either alone or in combination with biological processes, which results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed.

"Zone of attenuation" is the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

Section 810.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:

40 CFR 141.40 (1988).

Auditing Standards--Current Text, August 1, 1990 Edition, available through the American Institute of Certified Public Accountants, 1211 Avenue of

the Americas, New York, NY 10036.

Test Methods for Evaluating Solid Waste,
Physical/Chemical methods, EPA Publication SW-846
(Third Edition, 1986 as amended by Update I
(November, 1990). SW-846 and Update I are
available from the Superintendent of Documents,
U.S. Government Printing Office, Washington, D.C.
20402, Ph: (202) 783-3238.

40 CFR 258.Appendix II (1992).

- b) This incorporation includes no later amendments or editions.

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811
 STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance

SUBPART B: INERT WASTE LANDFILLS

Section	
811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
811.301	Scope and Applicability
811.302	Facility Location
811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeological Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater

Monitoring Systems
 811.319 Groundwater Monitoring Programs
 811.320 Groundwater Quality Standards
 811.321 Waste Placement
 811.322 Final Slope and Stabilization
 811.323 Load Checking Program
811.324 Corrective Action Measures for MSWLF Units
811.325 Selection of remedy for MSWLF Units
811.326 Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section
 811.401 Scope and Applicability
 811.402 Notice to Generators and Transporters
 811.403 Special Waste Manifests
 811.404 Identification Record
 811.405 Recordkeeping Requirements
 811.406 Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section
 811.501 Scope and Applicability
 811.502 Duties and Qualifications of Key Personnel
 811.503 Inspection Activities
 811.504 Sampling Requirements
 811.505 Documentation
 811.506 Foundations and Subbases
 811.507 Compacted Earth Liners
 811.508 Geomembranes
 811.509 Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section
 811.700 Scope, Applicability and Definitions
 811.701 Upgrading Financial Assurance
 811.702 Release of Financial Institution
 811.703 Application of Proceeds and Appeals
 811.704 Closure and Postclosure Care Cost Estimates
 811.705 Revision of Cost Estimate
 811.706 Mechanisms for Financial Assurance
 811.707 Use of Multiple Financial Mechanisms
 811.708 Use of a Financial Mechanism for Multiple Sites
 811.709 Trust Fund for Unrelated Sites
 811.710 Trust Fund
 811.711 Surety Bond Guaranteeing Payment
 811.712 Surety Bond Guaranteeing Performance
 811.713 Letter of Credit
 811.714 Closure Insurance
 811.715 Self-Insurance for Non-commercial Sites

811.Appendix A Financial Assurance Forms

Illustration A Trust Agreement
 Illustration B Certificate of Acknowledgment
 Illustration C Forfeiture Bond
 Illustration D Performance Bond
 Illustration E Irrevocable Standby Letter of Credit
 Illustration F Certificate of Insurance for Closure and/or
 Postclosure Care
 Illustration G Operator's Bond Without Surety
 Illustration H Operator's Bond With Parent Surety
 Illustration I Letter from Chief Financial Officer

811.Appendix B Section-by-Section Correlation Between the
 Requirements of the Federal MSWLF Regulations at
 40 CFR 258 (1992) and the Requirements of Parts
 810 through 814.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1
 and authorized by Section 27 of the Environmental Protection Act
 (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005, 1021, 1021.1,
 1022, 1022.17, 1028.1 and 1027).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. , effective

NOTE: Capitalization indicates statutory language.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section 811.101 Scope and Applicability

- a) The standards of this Part apply to all new landfills, except those regulated pursuant to 35 Ill. Adm. Code 700 through 749. Subpart A contains general standards applicable to all new landfills. Subpart B contains additional standards for new landfills which dispose of only inert wastes. Subpart C contains additional standards for new landfills which dispose of chemical and putrescible wastes.
- b) This Part shall not apply until one year after the effective date of this Part to new landfills solely receiving the following wastes generated by the following industries, provided that proposed regulations of general applicability to that industry category are filed with the Board no later than December 1, 1990: wastes generated by foundries and primary steel production facilities and coal combustion wastes generated by electric utilities. The requirements of 35 Ill. Adm. Code 807 shall apply to such landfills during the interim period of one year after the effective date of this Part. This Part shall

become effective immediately after Dec. 1, 1990 if no proposal has been filed by that date.

c) All general provisions of 35 Ill. Adm. Code 810 apply to this Part.

d) Standards for Municipal Solid Waste landfills

1) The standards of this Part also apply to all new MSWLF units, as defined at 35 Ill. Adm. Code 810.103. The standards for the new MSWLF units include:

A) The standards applicable to new landfills pursuant to subsection (a); and

B) The standards adopted in this part that are identical-in-substance to the federal regulations promulgated by the U.S. Environmental Protection Agency pursuant Sections 4004 and 4010 of the RCRA relating to MSWLF program. Such standards are individually indicated as applicable to MSWL units.

2) The Appendix table 811.Appendix B provides a Section-by-Section correlation between the requirements of the federal MSWLF regulations at 40 CFR 258 (1992) and the requirements of this Part.

Section 811.107 Operating Standards

a) Phasing of Operations

- 1) Waste shall be placed in a manner and at such a rate that mass stability is provided during all phases of operation. Mass stability shall mean that the mass of the waste deposited will not undergo settling or slope failure that interrupts operations at the facility or causes damage to any of the various landfill operations or structures, such as the liner, leachate or drainage collection system, gas collection system or monitoring system.
- 2) The phasing of operations at the facility shall be designed in such a way as to allow the sequential construction, filling, and closure of discrete units or parts of units.
- 3) The operator shall design and sequence the waste

placement operation in each discrete unit or parts of units, in conjunction with the overall operations of the facility, so as to shorten the operational phase and allow wastes to be built up to the planned final grade.

b) Size and Slope of Working Face

- 1) The working face of the unit shall be no larger than is necessary, based on the terrain and equipment used in waste placement, to conduct operations in a safe and efficient manner.
- 2) The slopes of the working face area shall be no steeper than two to one (horizontal to vertical) unless the waste is stable at steeper slopes.

c) Equipment

Equipment shall be maintained and available for use at the facility during all hours of operation, so as to achieve and maintain compliance with the requirements of this Part.

d) Utilities

All utilities, including but not limited to heat, lights, power and communications equipment, necessary for safe operation in compliance with the requirements of this Part shall be available at the facility at all times.

e) Maintenance

The operator shall maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.

f) Open Burning

Open burning is prohibited except in accordance with 35 Ill. Adm. Code 200 through 245.

g) Dust Control

The operator shall implement methods for controlling dust so as to prevent wind dispersal of particulate matter.

h) Noise Control

The facility shall be designed, constructed and maintained to minimize the level of equipment noise audible outside the facility. The facility shall not cause or contribute to a violation of 35 Ill. Adm. Code 900 through 905 or of Section 24 of the Act.

i) Vector Control

The operator shall implement measures to control the population of disease and nuisance vectors.

j) Fire Protection

The operator shall institute fire protection measures including, but not limited to, maintaining a supply of water on-site and radio or telephone access to the nearest fire department.

k) Litter Control

- 1) The operator shall patrol the facility daily to check for litter accumulation. All litter shall be collected and placed in the fill or in a secure, covered container for later disposal.
- 2) The facility shall not accept solid waste from vehicles that do not utilize devices such as covers or tarpaulins to control litter, unless the nature of the solid waste load is such that it cannot cause any litter during its transportation to the facility.

l) Mud Tracking

The facility shall implement methods, such as use of wheel washing units, to prevent tracking of mud by hauling vehicles onto public roadways.

m) Liquids Restrictions for MSWLF units

- 1) Bulk or noncontainerized liquid waste may not be placed in MSWLF units unless:
 - A) The waste is household waste other than septic waste; or
 - B) The waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, is designed with a composite liner and leachate collection system that complies with the requirements of

Sections 811.306 through 811.308.

- 2) Containers holding liquid waste may not be placed in a MSWLF unit unless:
- A) The container is a small container similar in size to that normally found in household waste;
 - B) The container is designed to hold liquids for use other than storage; or
 - C) The waste is household waste.
- 3) For purposes of this Section:
- A) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846) incorporated by reference in 35 Ill. Adm Code 810.104.
 - B) "Gas condensate" means the liquid generated as a result of gas recovery processes at the MSWLF unit.

BOARD NOTE. Subsection 811.107(m) is Derived from 40 CFR 258.28 (1992).

Section 811.110 Closure and Written Closure Plan

- a) The final slopes and contours shall be designed to complement and blend with the surrounding topography of the proposed final land use of the area.
- b) All drainage ways and swales shall be designed to safely pass the runoff from the 100-year, 24-hour precipitation event without scouring or erosion.
- c) The final configuration of the facility shall be designed in a manner that minimizes the need for further maintenance.
- d) Written closure plan
 - 1) The operator shall maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that fulfills the provisions of the Act, of

this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan shall fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.

- 2) A modification of the written closure plan shall constitute a significant modification of the permit for the purposes of 35 Ill. Adm. Code 813.Subpart B.

e) The owner or operator of a MSWLF unit shall begin closure activities for each MSWLF unit no later than the date determined as follows:

- 1) 30 days after the date on which the MSWLF unit receives the final receipt of wastes; or
- 2) If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes.
- 3) The Agency shall grant extensions beyond this one-year deadline for beginning closure if the owner or operator demonstrates that:
- A) the MSWLF unit has the capacity to receive additional wastes; and
- B) the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE. Subsection (e) is Derived from 40 CFR 258.60(f) (1992).

f) The owner or operator of a MSWLF unit shall complete closure activities for each unit in accordance with the closure plan no later than the dates determined as follows:

- 1) within 180 days of beginning closure, as specified in subsection (g) of this Section.
- 2) The Agency shall grant extension of the closure period if the owner or operator demonstrates that:
- A) the closure will, of necessity, take longer than 180 days; and
- B) the owner or operator has taken and will

continue to take all necessary steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE. Subsection (e) is Derived from 40 CFR 258.60(g) (1992).

g) Deed notation.

- 1) Following closure of all MSWLF units at a site, the owner or operator shall record a notation on the deed to the landfill facility property or some other instrument that is normally examined during title search. The owner or operator shall place a copy of the instrument in the operating record, and shall notify the Agency that the notation has been recorded and a copy has been placed in the operating record.
- 2) The notation on the deed or other instrument must be made in such a way that in perpetuity notify any potential purchaser of the property that:
 - A) The land has been used as a landfill facility; and
 - B) Its use is restricted pursuant to Section 811.111(d).

BOARD NOTE. Subsection (g) is Derived from 40 CFR 258.60(i) (1992).

- h) The Agency shall allow the owner or operator of a MSWLF unit to remove the notation from the deed only if the owner or operator demonstrates to the Agency that all wastes are removed from the facility.

BOARD NOTE. Subsection (h) is Derived from 40 CFR 258.60(j) (1992).

Section 811.111 Postclosure Maintenance

- a) The operator shall treat, remove from the site, or dispose of all wastes and waste residues within 30 days after receipt of the final volume of waste.
- b) The operator shall remove all equipment or structures not necessary for the postclosure land use, unless otherwise authorized by permit.
- c) Maintenance and Inspection of the Final Cover and Vegetation:

- 1) Frequency of Inspections
 - A) The operator shall conduct a quarterly inspection of all vegetated surfaces for a minimum of five years after closure, and after five years, the operator may reduce the frequency of annual inspections until settling has stopped and there are no eroded or scoured areas.
 - B) For landfills, other than those used exclusively for disposing waste generated at the site, inspections shall be continued for a minimum period of 15 years after closure.
 - C) For MSWLF units, inspections shall be continued for a minimum period of 30 years after closure.
 - 2) All rills, gullies and crevices six inches or deeper identified in the inspection shall be filled. Areas identified by the operator or the Agency inspection as particularly susceptible to erosion shall be recontoured.
 - 3) All eroded and scoured drainage channels shall be repaired and lining material shall be replaced if necessary.
 - 4) All holes and depressions created by settling shall be filled and recontoured so as to prevent standing water.
 - 5) All reworked surfaces, and areas with failed or eroded vegetation in excess of 100 square feet cumulatively, shall be revegetated in accordance with the approved closure plan for the facility.
- d) Planned uses of property at MSWLF units
- 1) The owner or operator of a MSWLF unit shall include a description of the planned uses of the property during the postclosure care period in the written postclosure care plan prepared pursuant to 35 Ill Adm. Code 812.115.
 - 2) Postclosure use of the property must not disturb the integrity of the final cover, liner, any other components of the containment system, or the function of the monitoring systems, unless necessary to comply with the requirements of this Part.

- 3) The Agency shall approve any other disturbance if the owner or operator demonstrates that the disturbance of the final cover, liner or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

BOARD NOTE. Subsection (d) is Derived from 40 CFR 258.61(c)(3) (1992).

Section 811.112 Recordkeeping Requirements for MSWLF Units

The owner or operator of a MSWLF unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain the following information:

- a) Any location restriction demonstration required under 35 Ill. Adm. Code 812.109 and 812.303;
- b) Inspection records, training procedures, and notification procedures required by Section 811.323;
- c) Gas monitoring results and any remediation plans required by Sections 811.310 and 811.311;
- d) Any MSWLF unit design documentation for placement of leachate or gas condensate in a MSWLF unit required by Section 811.107(m);
- e) Any demonstration, certification, monitoring results, testing, or analytical data relating to the groundwater monitoring program required by Sections 811.319, 811.324, 811.325, and 811.326;
- f) Closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 811.110 and 811.111; and
- g) Any cost estimates and financial assurance documentation required by Subpart G of this Part.

BOARD NOTE. The requirements of this Section are derived from 40 CFR 258.29 (1992).

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

0142-0727

Section 811.302 Facility Location

- a) No part of a unit shall be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit shall be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:
 - 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
 - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than 1×10^{-7} centimeters per second, as determined by in situ borehole or equivalent tests;
 - 3) There is no indication of continuous sand or silt seams, faults, fractures or cracks within the stratum that may provide paths for migration; and
 - 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.
- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway shall have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (8 feet) in height.
- d) No part of a unit shall be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.
- e) The facility shall not be located closer than 1525 meters (5000 feet) of any runway used by piston type

0142-0728

aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration provides the operator with written permission, including technical justification, for a closer distance.

- f) Owners or operators proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft shall notify the affected airport and the Federal Aviation Administration (FAA) within 7 days of filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE. Subsection (f) is derived from 40 CFR 258.10 (1992).

Section 811.303 Design Period

- a) The design period for putrescible and chemical waste disposal units shall be the estimated operating life plus a postclosure care period of 30 years. The design period for putrescible waste landfill units, other than MSWLF units, may be reduced if ~~unless~~ measures are undertaken in compliance with subsections (b) and (c) to encourage stabilization of putrescible waste. The design period for a MSWLF unit may be reduced in accordance with subsection (d).
- b) The design period for a disposal unit which accepts only putrescible waste in shredded form shall be the estimated operating life plus 20 years of postclosure care.
- c) The design period for a putrescible waste disposal unit that recycles leachate in accordance with Section 811.309(f) shall be the estimated operating life plus 20 years of postclosure care.
- d) The Agency shall reduce the postclosure care period of a MSWLF unit if the owner or operator demonstrates to the Agency that the reduced period is sufficient to protect human health and the environment.

BOARD NOTE: Subsection (d) is derived from 40 CFR 258.61(b)(1).

Section 811.319 Groundwater Monitoring Programs

- a) Detection Monitoring Program

Any use of the term "maximum allowable predicted

concentration" in this Section is a reference to 35 Ill. Adm. Code 811.318(c). The operator shall implement a detection monitoring program in accordance with the following requirements:

- 1) Monitoring Schedule and Frequency
 - A) The monitoring period shall begin as soon as waste is placed into the unit of a new landfill or within one year of the effective date of this Part for an existing landfill. Monitoring shall continue for a minimum period of fifteen years after closure, or in the case of MSWLF units, a minimum period of 30 years after closure, except as otherwise provided by Section 811.303. The operator shall sample all monitoring points for all potential sources of contamination on a quarterly basis except as specified in subsection (a)(3) or may institute more frequent sampling throughout the time the source constitutes a threat to groundwater. For the purposes of this section, the source shall be considered a threat to groundwater, if the results of the monitoring indicate that the concentrations of any of the constituent monitored within the zone of attenuation are above the maximum allowable predicted concentration for that constituent.
 - B) Beginning fifteen years after closure of the unit, or five years after all other potential sources of discharge no longer constitute a threat to groundwater, as defined in subsection (a)(1)(A), the monitoring frequency may change on a well by well basis to an annual schedule if either of the following conditions exist. However, monitoring shall return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in accordance with Section 811.320(e), in the concentration of any constituent with respect to the previous sample.
 - i) All constituents monitored within the zone of attenuation have returned to a concentration less than or equal to ten percent of the maximum allowable predicted concentration; or

- ii) All constituents monitored within the zone of attenuation are less than or equal to their maximum allowable predicted concentration for eight consecutive quarters.
- C) Monitoring shall be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by Section 811.303; five years after closure or, in the case of at landfills, other than MSWLF units, those which are used exclusively for disposing waste generated at the site; or a minimum period of fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued under the following conditions:
- i) No statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled sampling for three consecutive years, after changing to an annual monitoring frequency; or
 - ii) Immediately after contaminated leachate is no longer generated by the unit.

BOARD NOTE. Changes to Subsections (a)(1)(A) and (a)(1)(C) are derived from 40 CFR 258.50(e) (1992).

- 2) Criteria for Choosing Constituents to be Monitored
- A) The operator shall monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents shall be chosen for monitoring if they meet the following requirements:
- i) The constituent appears in, or is expected to be in, the leachate; and
 - ii) The Board has established for the constituent a public or food processing water supply standard, at 35 Ill. Adm. Code 302, the Board has established a groundwater quality standard under the Illinois Groundwater Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par.

0142-0731

7451 et seq.), or the constituent may otherwise cause or contribute to groundwater contamination.

- B) One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents. The use of such indicator constituents must be included in an Agency approved permit.

3) Organic Chemicals Monitoring

The operator shall monitor each existing well that is being used as a part of the monitoring well network at the facility within one year of the effective date of this Part, and monitor each new well within three months of its establishment. The monitoring required by this subsection shall be for a broad range of organic chemical contaminants in accordance with the procedures described below:

- A) The analysis shall be at least as comprehensive and sensitive as the tests for;
- i) The 51 organic chemicals in drinking water described at 40 CFR 141.40 (1988), incorporated by reference at 35 Ill. Adm. Code 810.104; and
 - ii) Any other organic chemical for which a groundwater quality standard or criterion has been adopted pursuant to Section 14.4 of the Act or Section 8 of the Illinois Groundwater Protection Act.
- B) At least once every two years, the operator shall monitor each well in accordance with subsection (a)(1)(A).
- C) The operator of a MSWLF unit shall monitor each well in accordance with subsection (a)(1)(A) on an annual basis.

BOARD NOTE. Subsection (a)(3)(C) is derived from 40 CFR 258.54(b) (1992).

4) Confirmation of Monitored Increase

- A) The confirmation procedures of this

0142-0732

subsection shall be used only if the concentrations of the constituents monitored can be measured at or above the practical quantitation limit (PQL). The PQL is defined as the lowest concentration that can be reliably measured within specified limits of precision and accuracy, under routine laboratory operating conditions. The operator shall institute the confirmation procedures of subsection (a)(4)(B) after notifying the Agency in writing, within 10 days, of the following observed increases :

- i) The concentration of any constituent monitored in accordance with subsection (a)(1) and (a)(2) shows a progressive increase over four consecutive quarters;
- ii) The concentration of any constituent exceeds the maximum allowable predicted concentration at an established monitoring point within the zone of attenuation;
- iii) The concentration of any constituent monitored in accordance with subsection (a)(3) exceeds the preceding measured concentration at any established monitoring point; and
- iv) The concentration of any constituent monitored at or beyond the zone of attenuation exceeds the applicable groundwater quality standards of Section 811.320.

B) The confirmation procedures shall include the following:

- i) The operator shall verify any observed increase by taking additional samples within 45 days of the initial observation and ensure that the samples and sampling protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with subsection 811.320(e), so as to confirm the observed increase. The operator shall notify the Agency of any confirmed increase before the end of the next business day following the confirmation.

- ii) The operator shall determine the source of any confirmed increase, which may include, but shall not be limited to, natural phenomena, sampling or analysis errors, or an off-site source.
- iii) The operator shall notify the Agency in writing of any confirmed increase and state the source of the confirmed increase and provide the rationale used in such a determination within ten days of the determination.

b) Assessment Monitoring

The operator shall begin an assessment monitoring program in order to confirm that the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with subsection (c). The assessment monitoring program shall be conducted in accordance with the following requirements:

- 1) The assessment monitoring shall be conducted in accordance with this subsection to collect information to assess the nature and extent of groundwater contamination. The owner or operator of a MSWLF unit shall comply with the additional requirements prescribed in subsection (b)(5). The assessment monitoring which shall consist of, but not be limited to, the following steps:
 - A) More frequent sampling of the wells in which the observation occurred;
 - B) More frequent sampling of any surrounding wells;
 - C) The placement of additional monitoring wells to determine the source and extent of the contamination;
 - D) Monitoring of additional constituents that might indicate the source and extent of contamination; and
 - E) Any other investigative techniques that will assist in determining the nature and extent of the contamination.
- 2) The operator of the facility for which assessment

monitoring is required shall file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans shall be filed for review as a significant permit modification pursuant to 35 Ill. Adm. Code 813.Subpart B. The assessment monitoring program shall be implemented within 90 days of confirmation of any monitored increase in accordance with subsection (a)(4) or, in the case of permitted facilities, within 90 days of Agency approval.

- 3) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents, monitored at or beyond the zone of attenuation is above the applicable groundwater quality standards of Section 811.320 and is attributable to the solid waste disposal facility, then the operator shall determine the nature and extent of the groundwater contamination including an assessment of the potential impact on the groundwater should waste continue to be accepted at the facility and shall implement remedial action in accordance with subsection (d).
- 4) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents is attributable to the solid waste disposal facility and exceeds the maximum allowable predicted concentration within the zone of attenuation, then the operator shall conduct a groundwater impact assessment in accordance with the requirements of subsection (c).
- 5) In addition to the requirements of subsection (b)(1), to collect information to assess the nature and extent of groundwater contamination, the following requirements are applicable to MSWLF units:
 - A) The monitoring of additional constituents pursuant to (b)(1)(D) shall include, at a minimum, the constituents listed in 40 CFR 258. Appendix II, incorporated by reference at 35 Ill. Adm. Code 810.104.

BOARD NOTE. Subsection (b)(5)(A) is derived from 40 CFR 258.55(b) (1992).
 - B) Within 14 days of obtaining the results of sampling required under subsection (b)(1)(D), the owner or operator shall:

- i) place a notice in the operating record identifying the constituents that have been detected; and
- ii) notify the Agency that such a notice has been placed in the operating record.

BOARD NOTE. Subsection (b)(5)(B) is derived from 40 CFR 258.55(d)(1) (1992).

- C) The owner or operator shall establish background concentrations for any constituents detected pursuant to subsection (b)(1)(D) in accordance with Section 811.320(e).

BOARD NOTE. Subsection (b)(5)(C) is derived from 40 CFR 258.55(d)(3) (1992).

- D) Within 14 days of finding an exceedance above the applicable groundwater quality standards in accordance with subsection (b)(3), the owner or operator shall:

- i) place a notice in the operating record that identifies the constituents monitored under subsection (b)(1)(D) that have exceeded the groundwater quality standard;
- ii) notify the Agency and the appropriate officials of the local municipality or county within whose boundaries the site is located that such a notice has been placed in the operating record; and
- iii) notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site.

BOARD NOTE. Subsection (b)(5)(D) is derived from 40 CFR 258.55(g)(1)(i) through (iii) (1992).

c) Assessment of Potential Groundwater Impact

An operator required to conduct a groundwater impact assessment in accordance with subsection (b)(4) shall assess the potential impacts outside the zone of attenuation that may result from confirmed increases

above the maximum allowable predicted concentration within the zone of attenuation, attributable to the facility, in order to determine if there is need for remedial action. In addition to the requirements of Section 811.317, the following shall apply:

- 1) The operator shall utilize any new information developed since the initial assessment and information from the detection and assessment monitoring programs and such information may be used for the recalibration of the GCT model; and
 - 2) The operator shall submit the groundwater impact assessment and any proposed remedial action plans determined necessary pursuant to subsection (d) to the Agency within 180 days of the start of the assessment monitoring program.
- d) Remedial Action. The owner or operator of a MSWLF unit shall conduct corrective action in accordance with Sections 811.324, 811.325, and 811.326. The owner or operator of a landfill facility, other than a MSWLF unit, shall conduct remedial action in accordance with this subsection.
- 1) The operator shall submit plans for the remedial action to the Agency. Such plans and all supporting information including data collected during the assessment monitoring shall be submitted within 90 days of determination of either of the following:
 - A) The groundwater impact assessment performed in accordance with subsection (c), indicates that remedial action is needed; or
 - B) Any confirmed increase above the applicable groundwater quality standards of Section 811.320 is determined to be attributable to the solid waste disposal facility in accordance with subsection (b).
 - 2) If the facility has been issued a permit by the Agency, then the operator shall submit this information as an application for significant modification to the permit;
 - 3) The operator shall implement the plan for remedial action within 90 days of the following:
 - A) Completion of the groundwater impact assessment under subsection (c) that requires

- remedial action;
- B) Establishing that a violation of an applicable groundwater quality standard of Section 811.320 is attributable to the solid waste disposal facility in accordance with subsection (b)(3); or
 - C) Agency approval of the remedial action plan, where the facility has been permitted by the Agency.
- 4) The remedial action program shall consist of one or a combination of one or more of the following solutions:
- A) Retrofit additional groundwater protective measures within the unit;
 - B) Construct an additional hydraulic barrier, such as a cutoff wall or slurry wall system;
 - C) Pump and treat the contaminated groundwater; or
 - D) Any other equivalent technique which will prevent further contamination of groundwater.
- 5) Termination of the Remedial Action Program
- A) The remedial action program shall continue in accordance with the plan until monitoring shows that the concentrations of all monitored constituents are below the maximum allowable predicted concentration within the zone of attenuation, and below the applicable groundwater quality standards of Section 811.320 at or beyond the zone of attenuation, over a period of 4 consecutive quarters.
 - B) The operator shall submit to the Agency all information collected under subsection (d)(5)(A). If the facility is permitted then the operator shall submit this information as significant modification of the permit.

Section 811.323 Load Checking Program

- a) The operator shall implement a load checking program that meets the requirements of this Section, for detecting and discouraging attempts to dispose regulated hazardous wastes at the facility. For

purposes of this Section and Section 811.406, "regulated hazardous wastes" are wastes defined as such under RCRA, at 35 Ill. Adm. Code 721, and subject to regulations under 35 Ill. Adm. Code: Subtitle G.

- b) In addition to checking for hazardous waste in accordance with subsection (a), the load checking program at a MSWLF unit shall include waste load inspection for detecting and discouraging attempts to dispose "polychlorinated biphenyl wastes" as defined in 40 CFR 761.3 (1992).

BOARD NOTE. Subsection (b) is derived from 40 CFR 258.20(a) (1992).

- b) The load checking program shall consist of, at a minimum, the following components:
- 1) Random inspections
 - A) An inspector designated by the facility shall examine at least three random loads of solid waste delivered to the landfill on a random day each week. The drivers randomly selected by the inspector shall be directed to discharge their loads at a separate, designated location within the facility. The facility shall conduct a detailed inspection of the discharged material for any regulated hazardous, or other unacceptable wastes that may be present. Cameras or other devices may be used to record the visible contents of solid waste shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.
 - B) If regulated hazardous wastes or other unacceptable wastes are suspected, the facility shall communicate with the generator, hauler or other party responsible for shipping the waste to the facility to determine the identity of the waste.

- 2) Recording inspection results

Information and observations derived from each random inspection shall be recorded in writing and retained at the facility for at least three years. The recorded information shall include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the

vehicle; the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record shall be signed by both the inspector and the driver.

3) Training

The solid waste management facility shall train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes. The training program shall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

c) Handling Regulated Hazardous Wastes

- 1) If any regulated hazardous wastes are identified by random load checking, or are otherwise discovered to be improperly deposited at the facility, the facility shall promptly notify the Agency, the person responsible for shipping the wastes to the landfill, and the generator of the wastes, if known. Waste loads identical to the regulated hazardous waste identified through the random load checking which have not yet been deposited in the landfill shall not be accepted. The area where the wastes are deposited shall immediately be cordoned off from public access. The solid waste management facility shall assure the cleanup, transportation and disposal of the waste at a permitted hazardous waste management facility.
- 2) The party responsible for transporting the waste to the solid waste management facility shall be responsible for the costs of such proper cleanup, transportation and disposal.
- 3) Subsequent shipments by persons or sources found or suspected to be previously responsible for shipping regulated hazardous waste shall be subject to the following special precautionary measures prior to the solid waste management facility accepting wastes. The operator shall use precautionary measures such as questioning the driver concerning the waste contents prior to

discharge and visual inspection during the discharge of the load at the working face or elsewhere.

Section 811.324 Corrective Action Measures for MSWLF Units

- a) The owner or operator shall initiate an assessment of corrective action measures within 90 days of the following:
- 1) The groundwater impact assessment, performed in accordance with subsection 811.319 (c), indicates that remedial action is needed; or
 - 2) The assessment monitoring, performed in accordance with subsection 811.319(b), indicates that a confirmed increase above the applicable groundwater quality standards of Section 811.320 is attributable to the solid waste disposal facility.
- b) The owner or operator shall complete the corrective action assessment within a reasonable time period. The Agency shall specify that time period in the facility's permit.
- c) The owner or operator shall continue to monitor in accordance with the assessment monitoring program, as specified in Section 811.319(b).
- d) The assessment shall include an analysis of the effectiveness of various potential corrective action measures in meeting all of the requirements and objectives of the remedy, as described under Section 811.325, addressing at least the following:
- 1) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;
 - 2) The time required to begin and complete the remedy;
 - 3) The costs of remedy implementation; and
 - 4) The institutional requirements, such as State or local permit requirements or other environmental or public health requirements, that may substantially affect implementation of the remedies.

- e) The owner or operator must discuss the results of the corrective action measures assessment prior to the selection of a remedy in a public meeting with interested and affected parties.

BOARD NOTE. Requirements of this Section are derived from 40 CFR 258.56 (1992).

Section 811.325 Selection of remedy for MSWLF Units

- a) Based on the results of the corrective action measures assessment conducted under Section 811.324, the owner or operator of a MSWLF unit shall select a remedy that, at a minimum, meets the requirements of subsection (b). The owner or operator shall submit to the Agency, within 14 days of selecting a remedy, a report describing the selected remedy and how it meets the standards set forth in subsection (b) of this section. Such a report shall also be placed in the operating record.
- b) Remedies selected under this Section must meet the following requirements:
- 1) They must be protective of human health and the environment;
 - 2) They must attain the groundwater quality standards prescribed at Section 811.320;
 - 3) They must control the sources of release so as to reduce or eliminate, to the maximum extent practicable, further releases of constituents detected under the assessment monitoring into the environment that may pose a threat to human health or the environment; and
 - 4) They must comply with standards for management of wastes as specified in Section 811.326(d).
- c) In selecting a remedy that meets the requirements of subsection (b), the owner or operator shall consider the following evaluation factors:
- 1) The long- and short-term effectiveness and protectiveness of the potential remedies, along with the degree of certainty that the remedy will prove successful based on consideration of the following factors:
 - A) The magnitude of reduction of existing risks;

- B) The magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
 - C) The type and degree of long-term management required, including monitoring, operation, and maintenance;
 - D) Any short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;
 - E) The length of time until full protection is achieved;
 - F) Any potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - G) The long-term reliability of engineering and institutional controls; and
 - H) The potential need for replacement of the remedy.
- 2) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:
- A) The extent to which containment practices will reduce further releases; and
 - B) The extent to which treatment technologies may be used.
- 3) The ease or difficulty of implementing potential remedies based on consideration of the following types of factors:
- A) The degree of difficulty associated with constructing the technology;
 - B) The expected operational reliability of the technologies;

- C) The need to coordinate with and obtain necessary approvals and permits from other agencies;
 - D) The availability of necessary equipment and specialists; and
 - E) The available capacity and location of needed treatment, storage, and disposal services.
- 4) The practicable capability of the owner or operator to implement the remedies, including a consideration of the technical and economic capability.
- 5) The degree to which community concerns are addressed by potential remedies.
- d) Schedule for implementing remedial action.
- 1) The owner or operator shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time, taking into consideration the factors set forth in subsections (d)(3)(A) through (d)(3)(H).
 - 2) The Agency shall specify the time period for initiating remedial action in the facility's permit.
 - 3) The owner or operator shall consider the following factors in determining the schedule of remedial activities:
 - A) The extent and nature of contamination;
 - B) The practical capabilities of remedial technologies in achieving compliance with the groundwater quality standards established under Section 811.320 and other objectives of the remedy;
 - C) The availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
 - D) The desirability of utilizing technologies that are not currently available, but which may offer significant advantages over already available technologies in terms of

effectiveness, reliability, safety, or ability to achieve remedial objectives;

- E) Any potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
 - F) Any resource value of the aquifer including:
 - i) Any current and future uses;
 - ii) The proximity and withdrawal rate of users;
 - iii) The ground-water quantity and quality;
 - iv) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituent;
 - v) The hydrogeologic characteristic of the facility and surrounding land;
 - vi) The ground-water removal and treatment costs;
 - vii) The cost and availability of alternative water supplies;
 - G) The practicable capability of the owner or operator to implement the remedies; and
 - H) Any other relevant factors.
- e) The Agency shall determine that remediation of a release of one or more constituents monitored in accordance with Section 811.319 from a MSWLF unit is not necessary if the owner or operator demonstrates to the Agency that:
- 1) The groundwater is additionally contaminated by substances that have originated from a source other than the MSWLF unit and those substances are present in such concentrations that cleanup of the release from the MSWLF unit would provide no significant reduction in risk to actual or potential receptors; or
 - 2) The constituents are present in groundwater that:
 - A) Is not currently or reasonably expected to be a source of drinking water; and

- B) Is not hydraulically connected with waters to which the hazardous constituents are migrating or are likely to migrate in concentrations that would exceed the groundwater quality standards established under Section 811.320; or
- 3) The remediation of the release is technically impracticable; or
- 4) The remediation results in unacceptable cross-media impacts.
- f) A determination by the Agency pursuant to subsection (e) shall not affect the State's authority to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the groundwater, to prevent exposure to the groundwater, or to remediate the groundwater to concentrations that are technically practicable and which reduce threats to human health or the environment.

BOARD NOTE. The requirements of this Section are derived from 40 CFR 258.57 (1992).

Section 811.326 Implementation of the corrective action program at MSWLF Units

- a) Based on the schedule established under section 811.325(d) for initiation and completion of corrective action, the owner or operator shall:
 - 1) Establish and implement a corrective action groundwater monitoring program that:
 - A) At a minimum, meets the requirements of an assessment monitoring program under Section 811.319(b);
 - B) Indicates the effectiveness of the remedy; and
 - C) Demonstrates compliance with ground-water protection standard pursuant to subsection (e) of this Section.
 - 2) Implement the remedy selected pursuant to Section 811.325.
 - 3) Take any interim measures necessary to ensure the protection of human health and the environment.

The Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 811.325. The owner or operator shall consider the following factors in determining whether interim measures are necessary:

- A) The time required to develop and implement a final remedy;
 - B) Any actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - C) Any actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - D) Any further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
 - E) The weather conditions that may cause hazardous constituents to migrate or be released;
 - F) Any risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
 - G) Any other situations that may pose threats to human health and the environment.
- b) If an owner or operator determines, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Section 811.325(b) are not being achieved through the remedy selected, the owner or operator shall:
- 1) Implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under subsection (c) of this Section.
 - 2) Submit to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1), a report describing the alternative methods or techniques and how they meet the standards of

Section 811.325(b).

- c) If the owner or operator determines that compliance with the requirements of Section 811.325(b) cannot be practically achieved with any currently available methods, the owner or operator shall:
- 1) Obtain the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements under Section 811.325(b) cannot be practically achieved with any currently available methods.
 - 2) Implement alternative measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment.
 - 3) Implement alternative measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - A) Technically practicable; and
 - B) Consistent with the overall objective of the remedy.
 - 4) Notify the Agency within 14 days that a report justifying the alternative measures prior to implementing the alternative measures has been placed in the operating record.
- d) All solid wastes that are managed pursuant to a remedy required under Section 811.325, or pursuant to an interim measure required under subsection (a)(3), shall be managed by the owner or operator in a manner:
- 1) That is protective of human health and the environment; and
 - 2) That complies with applicable requirements of Part 811.
- e) Remedies selected pursuant to Section 811.325 shall be considered complete when:
- 1) The owner or operator complies with the groundwater quality standards established under Section 811.320 at all points within the plume of contamination that lie beyond the zone of attenuation established pursuant to Section

811.320;

- 2) Compliance with the groundwater quality standards established under Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program under Section 811.319(b) have not exceeded the groundwater quality standards for a period of three consecutive years using the statistical procedures and performance standards in Section 811.320(e). The Agency may specify an alternative time period during which the owner or operator must demonstrate compliance with the groundwater quality standard(s). The Agency shall specify such an alternative time period by considering the following factors:
- A) The extent and concentration of the release(s);
 - B) The behavior characteristics of the hazardous constituents in the ground-water;
 - C) The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and
 - D) The characteristics of the ground-water; and
- 3) All actions required to complete the remedy have been satisfied.
- f) Within 14 days of the completion of the remedy, the owner or operator shall notify the Agency that a certification that the remedy has been completed in compliance with the requirements of subsection (e) has been placed in the operating record. The certification must be signed by the owner or operator and by a qualified groundwater scientist or determined by the Agency to be completed.
- g) Upon the completion of certification that the corrective action has been completed, in accordance with subsection (e), the Agency shall release the owner or operator from the financial assurance requirements for corrective action pursuant Subpart G of this Part.

BOARD NOTE. Requirements of this Section are derived from 40 CFR 258.58 (1992).

SUBPART G: FINANCIAL ASSURANCE

Section 811.700 Scope, Applicability and Definitions

- a) This Subpart provides procedures by which the owner or operator of a permitted waste disposal facility provides financial assurance satisfying the requirements of Section 21.1(a) of the Act.
- b) Financial assurance may be provided, as specified in Section 811.706, by a trust agreement, a bond guaranteeing payment, a bond guaranteeing performance, a letter of credit, insurance or self-insurance. The owner or operator shall provide financial assurance to the Agency before the receipt of the waste.
- c) Except as provided in subsection (f), this Subpart does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site that is owned or operated by such a governmental entity shall provide financial assurance for closure and postclosure care of the site.
- d) The owner or operator is not required to provide financial assurance pursuant to this Subpart if the owner or operator demonstrates:
 - 1) That closure and postclosure care plans filed pursuant to 35 Ill. Adm. Code 724 or 725 will result in closure and postclosure care of the site in accordance with the requirements of this Part; and
 - 2) That the owner or operator has provided financial assurance adequate to provide for such closure and postclosure care pursuant to 35 Ill. Adm. Code 724 or 725.
- e) Definition: "Assumed closure date" means the date during the next permit term on which the costs of premature final closure of the facility, in accordance with the standards of this Part, will be greatest.
- f) ON OR AFTER APRIL 9, 1994, NO PERSON, OTHER THAN THE STATE OF ILLINOIS, ITS AGENCIES AND INSTITUTIONS, SHALL CONDUCT ANY DISPOSAL OPERATION AT A MSWLF UNIT THAT REQUIRES A PERMIT UNDER SUBSECTION (D) OF SECTION 21.1 OF THE ACT, UNLESS THAT PERSON HAS POSTED WITH THE AGENCY A PERFORMANCE BOND OR OTHER SECURITY FOR THE

PURPOSES OF:

- 1) INSURING CLOSURE OF THE SITE AND POST-CLOSURE CARE IN ACCORDANCE WITH THE ACT AND ITS RULES; AND
- 2) INSURING COMPLETION OF A CORRECTIVE ACTION REMEDY WHEN REQUIRED BY BOARD RULES ADOPTED UNDER SECTION 22.40 OF THE ACT OR WHEN REQUIRED BY SECTION 22.41 OF THE ACT. (Section 21.1(a.5) of the Act)

BOARD NOTE. Subsection (f) clarifies the applicability of the financial assurance requirements to local governments since the Subtitle D regulations exempt only federal and state governments from financial assurance requirements (40 CFR 258.70 (1992)).

Section 811.701 Upgrading Financial Assurance

- a) The owner or operator shall maintain financial assurance equal to or greater than the current cost estimate calculated pursuant to Section 811.704 at all times, except as otherwise provided by subsection (b).
- b) The owner or operator shall increase the total amount of financial assurance so as to equal the current cost estimate within 90 days after any of the following occurrences:
 - 1) An increase in the current cost estimate;
 - 2) A decrease in the value of a trust fund;
 - 3) A determination by the Agency that an owner or operator no longer meets the gross revenue test of Section 811.715(d) or the financial test of Section 811.715(e); or,
 - 4) Notification by the owner or operator that the owner or operator intends to substitute alternative financial assurance, as specified in Section 811.706, for self-insurance.

Section 811.702 Release of Financial Institution

The Agency shall release a trustee, surety, insurer or other financial institution when:

- a) An owner or operator substitutes alternative financial assurance such that the total financial assurance for the site is equal to or greater than the current cost estimate, without counting the amounts to be released; or

- b) The Agency releases the owner or operator from the requirements of this Subpart pursuant to 35 Ill. Adm. Code 813.403(b).

Section 811.703 Application of Proceeds and Appeals

- a) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.
- b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order modifications in permits to change the type or amount of financial assurance pursuant to an enforcement action or a variance petition. Also, the Board may order that an owner or operator modify a closure or postclosure care plan or order that proceeds from financial assurance be applied to the execution of a closure or postclosure care plan.
- c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105 and Section 21.5(e) of the Act:
 - 1) A refusal to accept financial assurance tendered by the owner or operator;
 - 2) A refusal to release the owner or operator from the requirement to maintain financial assurance;
 - 3) A refusal to release excess funds from a trust;
 - 4) A refusal to approve a reduction in the penal sum of a bond;
 - 5) A refusal to approve a reduction in the amount of a letter of credit;
 - 6) A refusal to approve a reduction in the face amount of an insurance policy; or
 - 7) A determination that an owner or operator no longer meets the gross revenue test or financial test.

Section 811.704 Closure and Postclosure Care and Corrective
Action Cost Estimates

- a) Written cost estimate. The owner or operator shall have a written estimate of the cost of closure of all parts of the facility where wastes have been deposited in accordance with the requirements of this Part; the written closure plan, required by Section 811.110 and 35 Ill. Adm. Code 812.114; and the cost of postclosure care and plans required by this Part and the written postclosure care plans required by 35 Ill. Adm. Code 812.115. The cost estimate is the total cost for closure and postclosure care.
- b) The owner or operator shall revise the cost estimate whenever a change in the closure plan or postclosure care plan increases the cost estimate.
- c) The cost estimate must be based on the steps necessary for the premature final closure of the facility on the assumed closure date.
- d) The cost estimate must be based on the assumption that the Agency will contract with a third party to implement the closure plan.
- e) The cost estimate may not be reduced by allowance for the salvage value of equipment or waste, for the resale value of land, or for the sale of landfill gas.
- f) The cost estimate must, at a minimum, include all costs for all activities necessary to close the facility in accordance with all requirements of this Part.
- g) The postclosure monitoring and maintenance cost estimate must be prepared:
 - 1) On the basis of the design period for each unit at a facility, assuming operations will cease on the assumed closure date; and
 - 2) Reduced to present value, as follows:
 - A) Based on a 4 percent discount rate;
 - B) Without allowing for inflation;
 - C) Over a period including the time remaining until the assumed closure date, plus the postclosure care period;
- h) The postclosure care cost estimate must, at a minimum,

be based on the following elements in the postclosure care plan:

- 1) Groundwater monitoring, based on the number of monitoring points and parameters and the frequency of sampling specified in the permit.
- 2) The annual Cost of Cover Placement and Stabilization, including an estimate of the annual residual settlement and erosion control and the cost of mowing.
- 3) Alternative Landfill Gas Disposal. If landfill gas is transported to an off-site processing system, then the owner or operator shall include in the cost estimate the costs necessary to operate an on-site gas disposal system, should access to the off-site facility become unavailable. The cost estimate must include the following information: installation, operation, maintenance and monitoring of an on-site gas disposal system.
- 4) Cost Estimates Beyond the Design Period. When a facility must extend the postclosure care period beyond the applicable design period, the cost estimate must be based upon such additional time and the care activities occurring during that time.
 - i) This Section does not authorize the Agency to require the owner or operator to perform any of the indicated activities upon which cost estimates are to be based; however, if the site permit requires a closure activity, the owner or operator shall include the cost of that activity in the cost estimate.
 - j) Once the owner or operator has completed an activity, the owner or operator may file an application for significant permit modification pursuant to 35 Ill. Adm. Code 813.201 indicating that the activity has been completed, and zeroing that element of the cost estimate.
 - k) Cost estimate for corrective action at MSWLF units.
 - 1) An owner or operator of a MSWLF unit required to undertake a corrective action program pursuant to Section 811.326 shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the Section 811.326.

The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator shall notify the Agency that the estimate has been placed in the operating record.

- 2) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Section 811.326(f).
- 3) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided under paragraph (b) of this section if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.
- 4) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under paragraph (b) of this section if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator shall notify the Agency that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.
- 5) The owner or operator of each MSWLF unit required to undertake a corrective action program under Section 811.326 shall establish, in accordance with Section 811.706, financial assurance for the most recent corrective action program.
- 6) The owner or operator shall provide continuous coverage for corrective action until released from the financial assurance requirements for corrective action by demonstrating compliance with Section 811.326 (f) and (g).

BOARD NOTE. Subsection (k) is derived from 40 CFR 258.73 (1992).

Section 811.705 Revision of Cost Estimate

- a) The owner or operator shall revise the current cost estimates for closure and postclosure care in each new application for permit renewal or where a facility modification results in an increase of the cost estimate.

- b) The owner or operator shall review the closure and postclosure care plans prior to filing a revised cost estimate in order to determine whether they are consistent with current operations, and the requirements of this Subchapter. The owner or operator shall either certify that the plans are consistent, or shall file an application incorporating new plans pursuant to 35 Ill. Adm. Code 813.
- c) The owner or operator shall prepare new closure and postclosure cost estimates reflecting current prices for the items included in the estimates when submitting any new application for permit renewal. The owner or operator shall file revised estimates even if the owner or operator determines that there are no changes in the prices.
- d) The owner or operator of a MSWLF unit shall adjust the cost estimates of closure, postclosure, and corrective action for inflation on an annual basis during the following time period:
- 1) The active life of the unit for closure;
 - 2) The active life and postclosure care period, for postclosure; or
 - 3) until the corrective action program is completed in accordance with Section 811.326, for corrective action.

BOARD NOTE. Subsection (d) is derived from 40 CFR 258.71(a)(2) (1992).

Section 811.706 Mechanisms for Financial Assurance

- a) The owner or operator of a waste disposal site may utilize any of the following mechanisms listed in subsections (a)(1) through (a)(6) to provide financial assurance for closure and postclosure care, and for corrective action at a MSWLF unit. An owner or operator of a MSWLF unit shall also meet the requirements of subsections (b), (c) and (d). The mechanisms are as follows:
- a1) A trust Fund (Section 811.710);
 - b2) A surety Bond Guaranteeing Payment (Section 811.711);
 - e3) A surety Bond Guaranteeing Performance (Section 811.712);

0142-0756

- d4) A letter of Credit (Section 811.713);
 - e5) Closure Insurance (Section 811.714); or
 - f6) Self-insurance (Section 811.715).
- b) The owner or operator of a MSWLF unit shall ensure that the language of the mechanisms listed in subsection (a), when used for providing financial assurance for closure, postclosure, and corrective action, satisfies the following:
- 1) The amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action; and
 - 2) The funds will be available in a timely fashion when needed.
- c) The owner or operator of a MSWLF unit shall provide financial assurance utilizing one or more of the mechanisms listed in subsection (a) within the following dates:
- 1) By April 9, 1994 (the effective date of these requirements) or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care; or
 - 2) No later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325, in the case of corrective action.
- d) The owner or operator shall provide continuous coverage until the owner or operator is released from the financial assurance requirements pursuant to 35 Ill. Adm. Code 813.403(b) or Section 811.326.

Board Note. Subsections (b) and (c) are derived from 40 CFR 258.74(1) (1992).

Section 811.707 Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of this Subpart by establishing more than one financial mechanism per site. These mechanisms are limited to trust funds, surety bonds guaranteeing payment, letters of credit and insurance. The mechanisms must be as specified in 35 Ill. Adm. Code 811.710, 811.711, 811.713 and 811.714, respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least

equal to the current cost estimate. The owner or operator may use any or all of the mechanisms to provide for closure and postclosure care of the site.

Section 811.708 Use of a Financial Mechanism for Multiple Sites

An owner or operator may use a financial assurance mechanism specified in this Subpart to meet the requirements of this Subpart for more than one site. Evidence of financial assurance submitted to the Agency must include a list showing, for each site, the name, address and the amount of funds 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 site. The amount of funds available to the Agency must be sufficient to close and provide postclosure care for all of the owner or operator's sites. In directing funds available through a single mechanism for the closure and postclosure care of any single site covered by that mechanism, the Agency shall direct only that amount of funds designated for that site, unless the owner or operator agrees to the use of additional funds available under that mechanism.

Section 811.709 Trust Fund for Unrelated Sites

Any person may establish a trust fund for the benefit of the Agency which may receive funds from more than one owner or operator for closure of different sites. Such a trust fund must operate like the trust fund specified in 35 Ill. Adm. Code 807.710, except as follows:

- a) The trustee shall maintain a separate account for each site and shall evaluate such annually as of the day of creation of the trust;
- b) The trustee shall annually notify each owner or operator and the Agency of the evaluation of each owner or operator's account;
- c) The trustee shall release excess funds as required from the account for each site;
- d) The trustee shall reimburse the owner or operator or other person authorized to perform closure or postclosure care only from the account for that site.
- e) The Agency may direct the trustee to withhold payments only from the account for the site for which it has determined the cost of closure and postclosure care will be greater than the value of the account for that site pursuant to Section 811.710(g)(3).

Section 811.710 Trust Fund

- a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund which conforms to the requirements of this Section and submitting an original signed duplicate of the trust agreement to the Agency.
- b) The trustee shall be an entity which has the authority to act as a trustee and:
- 1) Whose trust operations are examined by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act (Ill. Rev. Stat. 1989, ch. 17, pars. 301 et seq.); or
 - 2) Who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, pars. 1551-1 et seq.).
- c) The trust agreement must be on the forms specified in Appendix A, Illustration A, and the trust agreement must be accompanied by a formal certification of acknowledgment, on the form specified in Appendix A, Illustration B.
- d) Payments into the trust:
- 1) For closure and post closure care:
 - 1A) The owner or operator shall make a payment into the trust fund each year during the pay-in period.
 - 2B) The pay-in period is the number of years remaining until the assumed closure date.
 - 3C) Annual payments are determined by the following formula:

$$\text{Annual payment} = (CE - CV) / Y$$
 where:
 CE = Current cost estimate
 CV = Current value of the trust fund
 Y = Number of years remaining in the pay in period.
 - 4D) The owner or operator shall make the first annual payment prior to the initial receipt of waste for disposal. The owner or operator

shall also, prior to such initial receipt of waste, submit to the Agency a receipt from the trustee for the first annual payment.

- 5E) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.
- 6F) The owner or operator may accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.
- 7G) An owner or operator required to provide additional financial assurance for an increase in the cost estimate because of an amendment to this Subchapter may provide such additional financial assurance pursuant to this subsection. The owner or operator may provide the increase by contributing to a new or existing trust fund pursuant to this Section. Subsection (d)(2) notwithstanding, the pay-in period for such additional financial assurance shall be not less than three years.

2) For corrective action at MSWLF units:

- A) The owner or operator shall make payments into the trust fund annually over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.
- B) The owner or operator shall make the first payment into the trust fund equal to at least one-half of the current cost estimate for corrective action divided by the number of years in the corrective action pay-in period, as defined in subsection (d)(2)(A) of this section. The amount of subsequent payments must be determined by the following formula:

$$\text{Next payment} = (\text{RB}-\text{CV})/\text{Y}$$

where:

RB = Most recent estimate of the required trust fund balance for corrective action (i.e.,

the total costs that will be incurred during the second half of the corrective action period);

CV = Current value of the trust fund; and

Y = Number of years remaining in the pay-in period.

- C) The owner or operator shall make the initial payment into the trust fund no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

Board Note. Changes to subsection (d) are derived from 40 CFR 258.74 (a)(2), (a)(4), and (a)(5) (1992).

- e) The trustee shall evaluate the trust fund annually, as of the day the trust was created or on such earlier date as may be provided in the agreement. The trustee shall notify the owner or operator and the Agency of the value within 30 days after the evaluation date.
- f) If the owner or operator of a MSWLF unit establishes a trust fund after having used one or more alternative mechanisms specified in this Subpart, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Section.

Board Note. Subsection (f) is derived from 40 CFR 258.74 (a)(6) (1992).

- fg) Release of excess funds:

- 1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current cost estimate.
- 2) Within 60 days after receiving a request from the owner or operator for a release of funds, the Agency shall instruct the trustee to the owner or operator such funds as the Agency specifies in writing to be in excess of the current cost estimate.

gh) Reimbursement for closure and postclosure care expenses:

- 1) After initiating closure, an owner or operator, or any other person authorized to perform closure or postclosure care, may request reimbursement for closure or postclosure care expenditures, by submitting itemized bills to the Agency.
- 2) Within 60 days after receiving the itemized bills for closure or postclosure care activities, the Agency shall determine whether the expenditures are in accordance with the closure or postclosure care plan. The Agency shall instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure or postclosure care plan.
- 3) If the Agency determines, based on such information as is available to it, that the cost of closure and postclosure care will be greater than the value of the trust fund, it shall withhold reimbursement of such amounts as it determines are necessary to preserve the in order to accomplish closure and postclosure care until it determines that the owner or operator is no longer required to maintain financial assurance for closure and postclosure care. In the event the fund is inadequate to pay all claims, the Agency shall pay claims according to the following priorities:
 - A) Persons with whom the Agency has contracted to perform closure or postclosure care activities (first priority);
 - B) Persons who have completed closure or postclosure care authorized by the Agency (second priority);
 - C) Persons who have completed work which furthered the closure or postclosure care (third priority);
 - D) The owner or operator and related business entities (last priority).

Section 811.711 Surety Bond Guaranteeing Payment

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms

0142-0762

to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1994 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

- b) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 613 et seq.).
- c) The surety bond must be on the forms specified in Appendix A, Illustration C, D or H.
- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions:
 - 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the approved closure and postclosure care plans. If the facility is a MSWLF unit, then the bond must also guarantee that the owner or operator will implement corrective action in accordance with Section 811.326.
 - 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; ~~or~~
 - D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide postclosure care in

accordance with the closure and postclosure care plans; or

E) Fails to implement corrective action at a MSWLF unit in accordance with Section 811.326

f) Penal sum:

- 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
- 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.

g) Term:

- 1) The bond must be issued for a term of at least five years and must not be cancelable during that term.
- 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.
- 3) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action program at a MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.

h) Cure of default and refunds:

- 1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at a

MSWLF unit or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.

- 2) After closure and postclosure care have been completed in accordance with the plans and requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance Section 811.326, the Agency shall refund any unspent money which was paid to the Agency by the surety.

Board Note. corrective Action language at subsection (a) is derived from 40 CFR 258.74(b)(1) (1992). The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

Section 811.712 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1994 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.
- b) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code.
- c) The surety bond must be on the forms as specified in Appendix A, Illustration C, D or H.
- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions:
- 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the closure and postclosure care

plans in the permit. If the facility is a MSWLF unit, then the bond must also guarantee that the owner or operator will implement corrective action in accordance with Section 811.326. The surety shall have the option of providing closure and postclosure care ~~in accordance with the closure and postclosure care plans and carrying out corrective action,~~ or of paying the penal sum.

- 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; or
 - D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to close the site or provide postclosure care in accordance with the closure and postclosure care plans.
 - E) Fails to implement corrective action at a MSWLF unit in accordance with Section 811.326

f) Penal sum:

- 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
- 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.

g) Term:

- 1) The bond must be issued for a term of at least five years and must not be cancelable during that term.
- 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period

starting with the date of expiration of the bond. During such extension, the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at a MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action at a MSWLF unit in compliance with this Part.

2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid to the Agency by the surety.

i) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Subpart.

Board Note. MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74 (b)(1) (1992). The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

Section 811.713 Letter of Credit

a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Section and submitting the letter to the Agency. A letter of credit obtained by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1994 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the

case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

- b) The issuing institution shall be an entity which has the authority to issue letters of credit and:
- 1) Whose letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies; or,
 - 2) Whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) Forms:
- 1) The letter of credit must be on the forms specified in Appendix A, Illustration E.
 - 2) 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: name and address of the site and the amount of funds assured for closure and postclosure care of the site, and for corrective action at a MSWLF unit by the letter of credit.
- d) Any amounts drawn by the Agency pursuant to the letter of credit will be deposited in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions on which the Agency may draw on the letter of credit:
- 1) The Agency shall draw on the letter of credit if the owner or operator fails to perform closure or postclosure care in accordance with the closure and postclosure care plans, or fails to implement corrective action at a MSWLF unit in accordance with Section 811.326.
 - 2) The Agency shall draw on the letter of credit when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care when ordered to do so by the

Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; or

D) Notifies the Agency that it has initiated closure, or initiates closure, but fails to provide closure and postclosure care in accordance with the closure and postclosure care plans.

E) Fails to implement corrective action at a MSWLF unit in accordance with Section 811.326

f) Amount:

- 1) The letter of credit must be issued in an amount at least equal to the current cost estimate.
- 2) The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.

g) Term:

- 1) The letter of credit must be issued for a term of at least five years and must be irrevocable during that term.
- 2) If the owner or operator fails to substitute alternative financial assurance prior to expiration of a letter of credit, the term of the letter of credit must be automatically extended for one twelve-month period starting with the date of expiration. During such extension, the letter of credit will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

h) Cure of default and refunds:

- 1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and postclosure care, or implement corrective action at a MSWLF unit, as required by this Part.

- 2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid to the Agency by the financial institution.

Board Note. MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74 (c)(1) (1992). The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

Section 811.714 Closure Insurance

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining closure and postclosure care insurance which conforms to the requirements of this Section and submitting an executed duplicate original of such insurance policy to the Agency.
- b) The insurer shall be licensed to transact the business of insurance by the Illinois Department of Insurance pursuant to the Illinois Insurance Code.
- c) The policy must be on forms approved by the Illinois Department of Insurance pursuant to the Illinois Insurance Code.
- d) Face amount:
- 1) The closure and postclosure care insurance policy must be issued for a face amount at least equal to the current cost estimate. 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.
 - 2) The Agency shall approve a reduction in the amount of the policy whenever the current cost estimate decreases.
- e) The closure and postclosure care insurance policy must guarantee that funds will be available to close the site and to provide postclosure care thereafter. The policy must also guarantee that, once 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. The insurer will be liable when:

- 1) The owner or operator abandons the site;
 - 2) The owner or operator is adjudicated bankrupt;
 - 3) The Board, pursuant to Title VIII of the Act, or a court of competent jurisdiction orders the site closed;
 - 4) The owner or operator notifies the Agency that it is initiating closure; or
 - 5) Any person initiates closure with approval of the Agency.
- f) Reimbursement for closure and postclosure care expenses:
- 1) After initiating closure, an owner or operator or any other person authorized to perform closure or postclosure care may request reimbursement for closure and postclosure care expenditures by submitting itemized bills to the Agency.
 - 2) Within 60 days after receiving bills for closure or postclosure care activities, the Agency shall determine whether the expenditures are in accordance with the closure or postclosure care plan. The Agency shall direct the insurer to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure and postclosure care plans.
 - 3) If the Agency determines based on such information as is available to it that the cost of closure and postclosure care will be greater than the face amount of the policy, it shall withhold reimbursement of such amounts as it deems prudent until it determines that the owner or operator is no longer required to maintain financial assurance. In the event the face amount of the policy is inadequate to pay all claims, the Agency shall pay claims according to the following priorities:
 - A) Persons with whom the Agency has contracted to perform closure or postclosure care activities (first priority);

- B) Persons who have completed closure or postclosure care authorized by the Agency (second priority);
 - C) Persons who have completed work which furthered the closure or postclosure care (third priority);
 - D) The owner or operator and related business entities (last priority).
- g) Cancellation:
- 1) The owner or operator shall maintain the policy in full force and effect until the Agency releases the insurer pursuant to Section 811.702.
 - 2) 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 the premium due is paid.
- h) 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.

Section 811.715 Self-Insurance for Non-commercial Sites

- a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:

"Assets" means all existing and all probable

future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which 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.

"Generally accepted accounting principles" means Auditing Standards--Current Text, incorporated by reference at 35 Ill. Adm Code 810.104.

"Gross Revenue" means total receipts less returns and allowances.

"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 tangible assets less liabilities; tangible assets do not include intangibles such as goodwill and rights to patents or royalties.

b) Information to be Filed

An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:

- 1) Bond without surety promising to pay the cost estimate (subsection (c)).

- 2) Proof that the owner or operator meets the gross revenue test (subsection (d)).
 - 3) Proof that the owner or operator meets the financial test (subsection (e)).
- c) Bond Without Surety. An owner or operator utilizing self-insurance shall provide a bond without surety on the forms specified in Appendix A, Illustration G. The owner or operator shall promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and postclosure care in accordance with the closure and postclosure care plans.
- d) Gross Revenue Test. The owner or operator shall demonstrate that less than one-half of its gross revenues are derived from waste disposal operations. Revenue is "from waste disposal operations" if it would stop upon cessation of the owner or operator's waste disposal operations.
- e) Financial Test
- 1) To pass the financial test, the owner or operator shall meet the criteria of either subsection (e)(1)(A) or (e)(1)(B):
 - A) The owner or operator shall have:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and
 - ii) Net working capital and tangible net worth each at least six times the current cost estimate; and
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets and at least six times the current cost estimate.
 - B) The owner or operator shall have:

- i) A current rating of AAA, AA, A or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A or Baa, as issued by Moody; and
 - ii) Tangible net worth at least six times the current cost estimate; and
 - 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 current cost estimate.
- 2) To demonstrate that it meets this test, the owner or operator shall submit the following items to the Agency:
- A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I; and
 - B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating that:
 - i) The accountant has compared the data which 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, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
- f) Updated Information.
- 1) After the initial submission of items specified in

0142-0775

subsections (d) and (e), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year.

- 2) If the owner or operator no longer meets the requirements of subsections (d) and (e), the owner or operator shall send notice to the Agency of intent to establish alternative financial assurance. 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.
- g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) includes an adverse opinion or a disclaimer of opinion, the Agency shall disallow the use of self-insurance. If the opinion includes other qualifications, the Agency shall disallow the use of self-insurance if:
- 1) The qualifications relate to the numbers which are used in the gross revenue test or the financial test; and,
 - 2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.
- h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by demonstrating that a corporation which owns an interest in the owner or operator meets the gross revenue and financial tests. The owner or operator shall also provide a bond with the parent as surety (Appendix A, Illustration H).

0142-0776

Section 811. Appendix B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

<u>RCRA SUBTITLE D REGULATIONS</u>	<u>ILLINOIS LANDFILL REGULATIONS</u>
<u>I. SUBPART A: General</u>	
1) <u>Purpose, Scope, and Applicability (40 CFR 258.1)</u>	1) <u>NL¹: Sections 811.101, 811.301, 811.401, 811.501, and 811.700. EL²: Section 814.101.</u>
2) <u>Definitions (40 CFR 258.2)</u>	2) <u>Section 810.103.</u>
<u>II. SUBPART B: Location Restrictions</u>	
1) <u>Airport safety (40 CFR 258.10)</u>	1) <u>NL: Section 811.302(e). EL: Section 814.302(c) and 814.402(c).</u>
2) <u>Floodplains. (40 CFR 258.11)</u>	2) <u>NL: Section 811.102(b). EL: Section 814.302 and 814.402.</u>
3) <u>Wetlands. (40 CFR 258.12)</u>	3) <u>NL: Sections 811.102(d), 811.102(e), and 811.103. EL: Section 814.302 and 814.402.</u>
4) <u>Fault areas. (40 CFR 258.13)</u>	4-5) <u>NL: Sections 811.304 and 811.305. EL: Section 814.302 and 814.402.</u>
5) <u>Seismic impact zones. (40 CFR 258.14)</u>	
6) <u>Unstable areas. (40 CFR 258.15)</u>	6) <u>NL: Sections 811.304 and 811.305. EL: Sections 811.302(c) and 811.402(c).</u>
7) <u>Closure of existing MSWL units. (40 CFR 258.16)</u>	7) <u>EL: Sections 814.301 and 814.401.</u>
<u>III. SUBPART C: Operating Criteria</u>	
1) <u>Procedures for excluding the receipt of hazardous waste. (40 CFR 258.20)</u>	1) <u>NL: Section 811.323. EL: Sections 814.302 and 814.402.</u>
2) <u>Cover material requirements. (40 CFR 258.21)</u>	2) <u>NL: Section 811.106. EL: Sections 814.302 and 814.402</u>

1 - NL: New Landfill; 2 - EL: Existing Landfill and Lateral Expansions.

<u>RCRA SUBTITLE D REGULATIONS</u>	<u>ILLINOIS LANDFILL REGULATIONS</u>
III. <u>SUBPART C: Operating criteria (contd.)</u>	
3) <u>Disease vector control. (40 CFR 258.22)</u>	3) <u>NL: Section 811.107(i). EL: Sections 814.302 and 814.402</u>
4) <u>Explosive gas control. (40 CFR 258.23)</u>	4) <u>NL: Sections 811.310, 811.311, and 811.312. EL: Sections 814.302 and 814.402</u>
5) <u>Air criteria. (40 CFR 258.24)</u>	5) <u>NL: Sections 811.107(b), 811.310, and 811.311. EL: Sections 814.302 and 814.402.</u>
6) <u>Access requirements. (40 CFR 258.25)</u>	6) <u>NL: Section 811.109. EL: Sections 814.302 and 814.402.</u>
7) <u>Run-on/run-off control system. (40 CFR 258.26)</u>	7) <u>NL: Section 811.103. EL: Sections 814.302 and 814.402.</u>
8) <u>Surface water requirements. (40 CFR 258.27)</u>	8) <u>same as above.</u>
9) <u>Liquids restrictions. (40 CFR 258.28)</u>	9) <u>NL: Section 811.107(m). EL: Sections 814.302 and 814.402.</u>
10) <u>Recordkeeping requirements. (40 CFR 258.29)</u>	10) <u>NL: Sections 811.112, and Parts 812 and 813. EL: Sections 814.302 and 814.402.</u>
IV. <u>SUBPART D: Design criteria (40 CFR 258.40)</u>	IV) <u>NL: 811.303, 811.304, 811.305, 811.306, 811.307, 811.308, 811.309, 811.315, 811.316, 811.317, and 811.Subpart E. EL: Sections 814.302 and 814.402.</u>
V. <u>SUBPART E: Groundwater Monitoring and Corrective Action</u>	
1) <u>Applicability.</u>	1) <u>NL: 35 Section 811.319(a)(1). EL: Sections 814.302 and 814.402.</u>
2) <u>Groundwater monitoring systems. (40 CFR 258.51)</u>	2) <u>NL: Sections 811.318 and 811.320(d). EL: Sections 814.302 and 814.402.</u>
3) <u>Groundwater sampling and analysis. (40 CFR 258.53)</u>	3) <u>NL: Section 811.318(e), 811.320(d), 811.320(e). EL: Sections 814.302 and 814.402.</u>

<u>RCRA SUBTITLE D REGULATIONS</u>	<u>ILLINOIS LANDFILL REGULATIONS</u>
4) <u>Detection monitoring program. (40 CFR 258.54)</u>	4) <u>NL: Section 811.319(a). EL: Sections 814.302 and 814.402.</u>
5) <u>Assessment monitoring program. (40 CFR 258.55)</u>	5) <u>NL: Section 811.319(b). EL: Sections 814.302 and 814.402.</u>
6) <u>Assessment of corrective measures. (40 CFR 258.56)</u>	6) <u>NL: Sections 811.319(d) and 811.324. EL: Sections 814.302 and 814.402.</u>
7) <u>Selection of remedy. (40 CFR 258.57)</u>	7) <u>NL: Sections 811.319(d) and 811.325. EL: Sections 814.302 and 814.402.</u>
8) <u>Implementation of the corrective action program. (40 CFR 258.58)</u>	8) <u>NL: Sections 811.319(d) and 811.325. EL: Sections 814.302 and 814.402.</u>
<u>VI. SUBPART F: Closure and Post-Closure Care</u>	
1) <u>Closure criteria. (40 CFR 258.60)</u>	1) <u>NL: Sections 811.110, 811.315 and 811.322. EL: Sections 814.302 and 814.402.</u>
2) <u>Post-closure care requirements. (40 CFR 258.61)</u>	2) <u>NL: Section 811.111. EL: Sections 814.302 and 814.402.</u>
<u>VII. SUBPART G: Financial Assurance Criteria</u>	
1) <u>Applicability and effective date. (40 CFR 258.70)</u>	1) <u>NL: Section 811.700. EL: Sections 814.302 and 814.402.</u>
2) <u>Financial assurance for closure. (40 CFR 258.71)</u>	2, 3 and 4) <u>NL: Sections 811.701 through 811.705. EL: Sections 814.302 and 814.402.</u>
3) <u>Financial assurance for post-closure. (40 CFR 258.72)</u>	
4) <u>Financial assurance for corrective action. (40 CFR 258.73)</u>	
5) <u>Allowable mechanisms. (40 CFR 258.73)</u>	5) <u>NL: Section 811.706 through 811.715. EL: Sections 814.302 and 814.402.</u>

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 814
 STANDARDS FOR EXISTING LANDFILLS AND UNITS

SUBPART A: GENERAL REQUIREMENTS

Section	
814.101	Scope and Applicability
814.102	Compliance Date
814.103	Notification to Agency
814.104	Applications for Significant Modification of Permits
814.105	Effect of Timely Filing of Notification and Application for Significant Modification
814.106	Agency Action on Applications for Significant Modifications to Existing Permits
<u>814.107</u>	<u>Interim Permit Requirements for Existing MSWLF Units</u>
<u>814.108</u>	<u>Permit Requirements for Lateral Expansions at Existing MSWLF Units</u>

SUBPART B: STANDARDS FOR UNITS ACCEPTING INERT WASTE

Section	
814.201	Scope and Applicability
814.202	Applicable Standards

SUBPART C: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL AND
 PUTRESCIBLE WASTES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

Section	
814.301	Scope and Applicability
814.302	Applicable Standards

SUBPART D: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL AND
 PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

Section	
814.401	Scope and Applicability
814.402	Applicable Standards

SUBPART E: STANDARDS FOR EXISTING UNITS ACCEPTING INERT WASTE
 ONLY, OR ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST
 INITIATE CLOSURE WITHIN TWO YEARS

Section	
814.501	Scope and Applicability
814.502	Standards for Operation and Closure

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and
 28.1, and authorized by Section 27 of the Environmental
 Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1005,
 1021, 1021.1, 1022, 1022.17, 1028.1 and 1027).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. , effective

0142-0780

NOTE: Capitalization indicates statutory language.

SUBPART A: GENERAL REQUIREMENTS

Section 814.101 Scope and Applicability

- a) This Part establishes the standards applicable to all existing landfill facilities, which includes existing facilities that are not considered to be new as defined at 35 Ill. Adm. Code 810.103. The existing landfill facilities covered by this Part include existing MSWLF units and lateral expansions, as defined at 35 Ill. Adm. Code 810.103 This Part establishes requirements for both new and existing disposal units within such existing landfill facilities. Landfill owners or operators are required to determine the date on which their facilities must begin closure, which is dependent upon the ability of existing units to meet the design and performance standards contained in this Part.
- b) The requirements of Sections 814.104, 814.105 and 814.106 of this Subpart apply only to those landfill facilities identified as existing facilities in subsection (a), other than lateral expansions at existing MSWLF units, and which require an Agency issued permit. The permit requirements for lateral expansions are specified at Section 814.108.
- c) In addition to requirements identified in subsection (b), existing MSWLF units shall comply with the interim permit requirements of Section 814.107.
- ed) All general provisions of 35 Ill. Adm. Code 810 apply to this Part.

Section 814.102 Compliance Date

Unless otherwise expressly provided in Section 814.105, all landfills with existing units shall comply with the requirements of this Part within six months of the effective date of this Part. Notwithstanding the requirements of Section 814.105, All existing MSWLF units and lateral expansions shall comply with the applicable requirements of this Part on or before October 9, 1993.

Section 814.103 Notification to Agency

No later than six months after the effective date of this Part, all owners or operators shall send notification to the Agency describing the facility, estimated date of closure of existing units, and whether the facility is subject to the requirements of Subpart B, Subpart C, Subpart D, or Subpart E.

Section 814.104 Applications for Significant Modification of Permits

- a) All owners or operators of landfills permitted pursuant to Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par 1021(d)) shall file an application for a significant modification to their permits for existing units, unless the units will be closed pursuant to Subpart E within two years of the effective date of this Part.
- b) The owner or operator of an existing unit shall submit information required by 35 Ill. Adm. Code 812 to demonstrate compliance with Subpart B, Subpart C or Subpart D, whichever is applicable.
- c) The application shall be filed within 48 months of the effective date of this Part, or at such earlier time as the Agency shall specify in writing pursuant to 35 Ill. Adm. Code 807.209 or 813.201(b).
- d) The application shall be made pursuant to the procedures of 35 Ill. Adm. Code 813.

Section 814.105 Effect of Timely Filing of Notification and Application for Significant Modification

- a) Permits issued pursuant to 35 Ill. Adm. Code 807 prior to the effective date of this Part remain in full force and effect until superseded by a permit issued pursuant to this Part or until revoked as a result of an enforcement action brought pursuant to Title VIII of the Act.
- b) An owner or operator who has timely filed a notification pursuant to Section 814.103 and an application for significant permit modification pursuant to Section 814.104 shall continue operation under the terms of its existing permits until final determination by the Agency on its application and any subsequent appeal to the Board pursuant to Section 40 of the Act. During this time, the owner or operator will be deemed to be in compliance with all requirements of this Part.

Section 814.107 Permit Requirements for Existing MSWLF Units

- a) EXCEPT FOR A LATERAL EXPANSION OF AN EXISTING MSWLF UNIT REQUIRED TO RECEIVE A PERMIT MODIFICATION UNDER SECTION 21(t) OF THE ACT, BY SEPTEMBER 1, 1993, OR WITHIN 30 DAYS FOLLOWING THE EFFECTIVE DATE OF P.A. 88-@@@ (@Date, 1993), WHICHEVER OCCURS FIRST, THE OWNER OR OPERATOR OF AN EXISTING MSWLF UNIT SHALL SUBMIT TO THE AGENCY A WRITTEN APPLICATION FOR A PERMIT (IF NO PERMIT HAS BEEN ISSUED UNDER SECTION 21(d) OF THE ACT) OR A PERMIT MODIFICATION (IF A PERMIT HAS BEEN ISSUED UNDER SECTION 21(d) OF THE ACT) ON FORMS PRESCRIBED AND PROVIDED BY THE AGENCY.
- b) PERSONS WHO SUBMIT AN APPLICATION FOR A PERMIT OR PERMIT MODIFICATION UNDER SUBSECTION (a) AND SECTION 22.42(a) OF THE ACT SHALL BE DEEMED TO HAVE AN INTERIM PERMIT OR INTERIM PERMIT MODIFICATION ON OCTOBER 9, 1993, OR 30 CALENDAR DAYS AFTER THE AGENCY RECEIVES THE APPLICATION UNDER SUBSECTION (a) ABOVE AND SECTION 22.42(a) OF THE ACT, WHICHEVER OCCURS FIRST, EXCEPT THAT:
- 1) THE AGENCY MAY IMPOSE SUCH CONDITIONS TO THE INTERIM PERMIT OR INTERIM PERMIT MODIFICATION LAW AS MAY BE NECESSARY TO ACCOMPLISH THE PURPOSES OF THE ACT AND AS ARE NOT INCONSISTENT WITH THE REGULATIONS DESCRIBED IN SECTION 22.41 OF THE ACT.
 - 2) NO INTERIM PERMIT OR INTERIM PERMIT MODIFICATION SHALL BE DEEMED ISSUED UNDER THIS SUBSECTION AND SUBSECTION 22.42(b) OF THE ACT IF THE AGENCY PROVIDES WRITTEN NOTIFICATION TO THE APPLICANT, BY OCTOBER 1, 1993 OR WITHIN 30 CALENDAR DAYS AFTER THE AGENCY RECEIVES THE APPLICATION UNDER THIS SECTION, WHICHEVER OCCURS FIRST, THAT:
 - A) THE APPLICATION IS INCOMPLETE; OR
 - B) THE APPLICANT MUST SUBMIT AN APPLICATION FOR A LATERAL EXPANSION PURSUANT TO SECTION 21(t) OF THE ACT.
- c) AN INTERIM PERMIT OR AN INTERIM PERMIT MODIFICATION DEEMED ISSUED UNDER THIS SECTION AND SECTION 22.42 OF THE ACT TO AN EXISTING MSWLF UNIT SHALL EXPIRE UPON THE OCCURRENCE OF THE FOLLOWING, WHICHEVER OCCURS FIRST:
- 1) SIX CALENDAR YEARS FROM THE DATE UPON WHICH THE INTERIM PERMIT OR INTERIM PERMIT MODIFICATION WAS DEEMED TO BE ISSUED UNDER THIS SECTION AND SECTION

22.42 OF THE ACT, EXCEPT THAT IN THE EVENT THAT THE AGENCY IS REVIEWING AN APPLICATION FOR A PERMIT OR A SIGNIFICANT MODIFICATION OF A PERMIT FOR THE MSWLF UNIT, OR IN THE EVENT THAT A BOARD REVIEW OF A PERMIT DENIAL OR CONDITIONS OF A PERMIT OR SIGNIFICANT MODIFICATION OF THE PERMIT FOR THE MSWLF UNIT PURSUANT TO SECTION 40 OR 41 OF THE ACT IS PENDING AT THE END OF 6 CALENDAR YEAR PERIOD, THE INTERIM PERMIT OR INTERIM PERMIT MODIFICATION SHALL EXPIRE UPON THE ISSUANCE OF THE AGENCY'S FINAL ACTION ON THE APPLICATION OR UPON THE CONCLUSION OF THE BOARD PROCEEDING UNDER SECTIONS 40 OR 41 OF THE ACT, INCLUDING THE EXHAUSTION OF ALL RIGHTS OF APPEAL OF THE PARTIES TO THE PROCEEDING.

- 2) FINAL ACTION BY THE AGENCY ON AN APPLICATION FOR A PERMIT OR SIGNIFICANT MODIFICATION OF A PERMIT ON OR AFTER OCTOBER 9, 1993, FOR THE MSWLF UNIT WHERE THE AGENCY NOTIFIES THE APPLICANT THAT THE AGENCY'S REVIEW OF THE APPLICATION INCLUDED A REVIEW OF THE MSWLF UNIT'S COMPLIANCE WITH BOARD RULES ADOPTED UNDER SECTION 22.40 OR 22.41 OF THE ACT.
- 3) THE BOARD REVOKES THE INTERIM PERMIT OR THE INTERIM PERMIT MODIFICATION DEEMED ISSUED UNDER THIS SECTION AND SECTION 22.42 OF THE ACT IN AN ENFORCEMENT ACTION BROUGHT UNDER THE ACT. (Section 22.42 of the Act.)

Section 814.108 Permit Requirements for Lateral Expansions at Existing MSWLF Units

- a) NO PERSON SHALL CAUSE OR ALLOW A LATERAL EXPANSION OF A MUNICIPAL SOLID WASTE LANDFILL UNIT ON OR AFTER OCTOBER 9, 1993, WITHOUT A PERMIT MODIFICATION, GRANTED BY THE AGENCY, THAT AUTHORIZES THE LATERAL EXPANSION. (Section 21(t) of the Act.)
- b) Owners or operators of existing MSWLF units planning lateral expansions shall submit to the agency an application for a permit a permit modification.
- c) The owner or operator filing an application pursuant to subsection (b) shall submit information required by 35 Ill. Adm. Code 812 to demonstrate compliance with Subpart C or Subpart D, whichever is applicable.
- d) The application shall be made pursuant to the procedures of 35 Ill. Adm. Code 813.

0142-0784

- e) The Agency shall review applications for permit modification filed under this Section in accordance with the requirements and procedures of 35 Ill. Adm. Code 813.

SUBPART C: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL
AND/OR
PUTRESCIBLE WASTES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

Section 814.302 Applicable Standards

- a) All of the requirements for new units described in 35 Ill. Adm. Code 811 shall apply to units regulated under this Subpart except the following:
- 1) The location standards in 35 Ill. Adm. Code 811.302(a), (d), and (e);
 - 2) The foundation and mass stability analysis standards in 35 Ill. Adm. Code 811.304 and 811.305;
 - 3) The final cover requirements of 35 Ill. Adm. Code 811.314 shall not apply to units or parts of units closed, covered and vegetated prior to the effective date of this Part.
 - 4) The liner and leachate drainage and collection requirements of 35 Ill. Adm. Code 811.306, 811.307, and 811.308; and
 - 5) The hydrogeological site investigation requirements of 35 Ill. Adm. Code 811.315, except that information shall be collected to implement a groundwater monitoring program in accordance with 35 Ill. Adm. Code 811.318 and 811.319 and establish background concentrations for the purpose of establishing water quality standards pursuant to 35 Ill. Adm. Code 811.320; and
- b) Units regulated under this Subpart shall be subject to the following standards:
- 1) The unit must be equipped with a system which will effectively drain and collect leachate and transport it to a leachate management system;
 - 2) The owner or operator shall provide a long-term static safety factor of at least 1.5 to protect a completed unit against slope failure;

3) Calculation of the Design Period

For the purposes of calculating financial assurance for existing landfills, other than existing MSWLF units and lateral expansions, the design period shall be calculated as follows:

- A) The design period shall be no less than the operating life of the landfill plus fifteen years of postclosure care;
- B) The postclosure care period shall be extended by three years for each year the unit is expected to be in operation up to the applicable design period required by 35 Ill. Adm. Code 811 (For example, an existing unit with expected operating lives of three, seven or 12 years after the effective date of this Part would be required to provide financial assurance during operation and for a postclosure care period of either 15 years since $3 \times 3 = 9$ years is less than the 15 year minimum specified in subsection (b)(3)(A); 21 years since $3 \times 7 = 21$ years; or 30 years since $3 \times 13 = 39$ years is greater than the 30 years specified in Section 811.303(a), respectively); and
- C) The design period may not be reduced as allowed by 35 Ill. Adm. Code 811.303(b) and (c).

c) Notwithstanding any exemptions under subsection (a), existing MSWLF units shall be subject to the following requirements:

- 1) The location standard at 35 Ill. Adm. Code 811.302(e); and
- 2) The foundation and mass stability standards at 35 Ill. Adm. Code 811.304 and 811.305.

d) Notwithstanding any exemptions under subsection (a) or any requirements under subsection (b), lateral expansions at existing MSWLF units shall be subject to the following requirements:

- 1) The location standard at 35 Ill. Adm. Code 811.302(e);
- 2) The foundation and mass stability standards at 35 Ill. Adm. Code 811.304 and 811.305;

- 3) The liner and leachate drainage and collection requirements at 35 Ill. Adm. Code 811.306, 811.307, and 811.308; and
- 4) The groundwater impact assessment requirements at 35 Ill. Adm. Code 811.317

SUBPART D: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL
AND/OR
PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

Section 814.402 Applicable Standards

- a) All of the requirements for new units described in 35 Ill. Adm. Code 811 shall apply to units regulated under this Subpart except the following:
 - 1) The location standards in 35 Ill. Adm. Code 811.302(a), (c), (d), and (e);
 - 2) The foundation and mass stability analysis standards in 35 Ill. Adm. Code 811.304 and 811.305;
 - 3) The liner and leachate drainage and collection requirements of 35 Ill. Adm. Code 811.306, 811.307, and 811.308;
 - 4) The final cover requirements of 35 Ill. Adm. Code 811.314 shall not apply to units or parts of units closed, covered and vegetated prior to the effective date of this Part;
 - 5) The hydrogeological site investigation requirements of 35 Ill. Adm. Code 811.315;
 - 6) The groundwater impact assessment standards of 35 Ill. Adm. Code 811.317;
 - 7) The groundwater monitoring program requirements of 35 Ill. Adm. Code 811.318(c); and
 - 8) The groundwater quality standards of 35 Ill. Adm. Code 811.320(a), (b) and (c).
- b) The following standards shall apply to units regulated under this Subpart:
 - 1) No new units shall be opened and an existing unit may not expand beyond the area included in a permit prior to the effective date of this Part

0142-0787

or, in the case of permit exempt facilities, beyond the area needed for landfilling to continue until closure is initiated.

- 2) After the effective date of this Part, the unit may not apply for supplemental wastestream permits to accept new special wastes. However, the unit may continue to accept special waste under permits existing prior to the effective date of this Part and may renew those permits as necessary.

- 3) Groundwater Standards

A unit shall not contaminate a source of drinking water at the compliance boundary, defined as any point on the edge of the unit at or below the ground surface. At any point on the compliance boundary, the concentration of constituents shall not exceed the water quality standards specified in 35 Ill. Adm. Code 302.301, 302.303, 302.304, and 302.305. The Board may provide for a zone of attenuation and adjust the compliance boundary in accordance with Section 28.1 of the Act and the procedures of 35 Ill. Adm. Code 106.Subpart G upon petition demonstration by the owner or operator that the alternative compliance boundary will not result in contamination of groundwater which may be needed or used for human consumption. In reviewing such petitions, the Board will consider the following factors:

- A) The hydrogeological characteristics of the unit and surrounding land, including any natural attenuation and dilution characteristics of the aquifer;
- B) The volume and physical and chemical characteristics of the leachate;
- C) The quantity, quality, and direction of flow of groundwater underlying the facility;
- D) The proximity and withdrawal rates of groundwater users;
- E) The availability of alternative drinking water supplies;
- F) The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater;

G) Public health, safety, and welfare effects; and

H) In no case shall the zone of compliance extend beyond the facility property line or beyond the annual high water mark of any navigable surface water.

4) Calculation of the Design Period

For the purposes of calculating financial assurance for existing landfills, other than existing MSWLF units and lateral expansions, the design period shall be calculated as follows:

A) The design period shall be no less than five years; and

B) The postclosure care period shall be extended by three years for each year the unit is expected to be in operation up to the applicable design period required by 35 Ill. Adm. Code 811. (For example, an existing unit with an expected life of three years after the effective date of this Part would be required to provide financial assurance for nine years of postclosure care, $9 = 3 \times 3$.)

C) The design period may not be reduced as allowed by 35 Ill. Adm. Code 811.303(b) and (c).

c) Notwithstanding any exemptions under subsection (b), existing MSWLF units shall be subject to the following requirements:

1) the location standard at 35 Ill. Adm. Code 811.302(e);

2) the foundation and mass stability standards at 35 Ill. Adm. Code 811.304 and 811.305.

d) Notwithstanding any exemptions under subsection (a) or any requirements under subsection (b), lateral expansions at existing MSWLF units shall be subject to the following requirements:

1) The location standard at 35 Ill. Adm. Code 811.302(e);

2) The foundation and mass stability standards at 35

Ill. Adm. Code 811.304 and 811.305;

- 3) The liner and leachate drainage and collection requirements at 35 Ill. Adm. Code 811.306, 811.307, and 811.308; and
- 4) The groundwater impact assessment requirements at 35 Ill. Adm. Code 811.317
- 5) The groundwater monitoring systems requirements at 35 Ill. Adm. Code 811.318;
- 6) The groundwater quality standards at 35 Ill. Adm. Code 811.320.

SUBPART E: STANDARDS FOR EXISTING UNITS ACCEPTING INERT WASTE ONLY, OR ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

Section 814.501 Scope and Applicability

- a) The standards in this Subpart are applicable to all existing units of landfills, including those exempt from permit requirements in accordance with Section 21(d) of the Act, that accept inert waste only, or which accept chemical and putrescible wastes.
- b) All units that cannot demonstrate compliance with the requirements of Subpart B, ~~or~~ Subpart C or Subpart D are scheduled to begin closure within two years of the effective date of this Part must begin closure within two years of the effective date of this Part.
- c) A new permit shall not be required for any facility at which all units will close within two years of the effective date of this Part.