ILLINOIS POLLUTION CONTROL BOARD
November 16, 2006

IN THE MATTER OF:	)	
	)	
UIC UPDATE, USEPA AMENDMENTS	)	R06-16
(July 1, 2005 through December 31, 2005)	)	(Identical-in-Substance
	)	Rulemaking - Land)
RCRA SUBTITLE D UPDATE, USEPA	)	R06-17
AMENDMENTS (July 1, 2005 through	)	(Identical-in-Substance
December 31, 2005)	)	Rulemaking - Land)
RCRA SUBTITLE C UPDATE, USEPA	)	R06-18
AMENDMENTS (July 1, 2005 through	)	(Identical-in-Substance
December 31, 2005 and March 23, 2006)	)	Rulemaking - Land)
	)	(Consolidated)

Adopted Rule. Final Order.

ORDER OF THE BOARD (by G.T. Girard):

SUMMARY OF TODAY'S ACTION

This identical-in-substance rulemaking consists of three separate consolidated dockets. The rulemaking updates the Illinois underground injection control, municipal solid waste landfill, and hazardous waste regulations to incorporate revisions to the federal regulations. The federal amendments that prompted this action were made by the United States Environmental Protection Agency (USEPA) during the period of July 1, 2005 through December 31, 2005, as well as March 23, 2006 amendments affecting earlier hazardous waste amendments. This proceeding adopts amendments to 35 Ill. Adm. Code 702 through 705, 720 through 726, 728, 733, 738, 810, and 811. It further adds new 35 Ill. Adm. Code 727. These amendments also make a series of non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments, principally to the text of 35 Ill. Adm. Code 704 and 730.

The Board has added clarifying amendments to Section 725.153 to the final amendments. This was in response to a comment received. The amendments are considered in the discussion that appears on page 61 of this opinion. Since the amendments Section 725.153 did not appear in the April 6, 2006 proposal for public comment in this matter, the Board solicits public comments on the amendments. The Board must receive any comments filed in response to this request before November 30, 2006.

This order and the related opinion adopt identical-in-substance amendments in three distinct program areas:

1. Under Sections 7.2 and 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13(c) (2004)), the Board adopts amendments to the Illinois regulations that are "identical in substance" to underground injection control (UIC) regulations that the USEPA adopted to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. § 300h (2003)). The federal UIC regulations are found at 40 C.F.R. 144 through 148.

2. Under Sections 7.2 and 22.40(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2004)), the Board adopts regulations that are "identical in substance" to municipal solid waste landfill (MSWLF) regulations adopted by the USEPA. These USEPA rules implement Subtitle D of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6941 *et seq*. (2003)). The federal RCRA Subtitle D MSWLF regulations are found at 40 C.F.R. 258.

3. Under Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2004)), the Board adopts regulations that are "identical in substance" to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq*. (2003)). The federal RCRA Subtitle C hazardous waste management regulations are found at 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

Sections 13(c), 22.40(a), and 22.4(a) also provide that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (1998)) do not apply to the Board's adoption of identical-in-substance regulations.

This order is supported by an opinion that the Board also adopts today. The Board will file the adopted amendments with the Office of the Secretary of State 30 days after the date of this order, after which they will be published in the *Illinois Register*. This delay is specifically to allow USEPA time to review and comment on the adopted amendments before they are filed and become effective.

The Clerk is directed to cause the filing of the following adopted amendments with the Office of the Secretary of State for their publication in the *Illinois Register*:

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

PART 702
RCRA AND UIC PERMIT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section
702.101 Purpose, Scope, and Applicability

SUBPART B: PERMIT APPLICATIONS

SUBPART C: PERMIT CONDITIONS

SUBPART D: ISSUED PERMITS

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

SOURCE: Adopted in R81-32~~, 47 PCB 93,~~ at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19~~,~~ at ~~53 PCB 131,~~ 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17 Ill. Reg. 5769, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6918, effective April 26, 1994; amended in R94-5 at 18 Ill. Reg. 18284, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9913, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11210, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 532, effective December 16, 1997; amended in R99-15 at 23 Ill. Reg. 9359, effective July 26, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18585, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 702.101 Purpose, Scope, and Applicability

a) Coverage.

1) ~~These~~ The permit regulations of 35 Ill. Adm. Code 702 through 705 include provisions for the following two permit programs:

A) The RCRA (Resource Conservation and Recovery Act) permit program ~~under~~ pursuant to Title V and Title X of the Environmental Protection Act [415 ILCS 5/Title V and Title X].

B) The UIC (Underground Injection Control) permit program ~~under~~ pursuant to Title III and Title X of the Environmental Protection Act [415 ILCS 5/Title III and Title X].

2) ~~These~~ The regulations of 35 Ill. Adm. Code 702 through 705 cover basic permitting requirements (35 Ill. Adm. Code 702~~, 703, and~~ through 704)

and procedures for processing of permit applications (35 Ill. Adm. Code 705) for the RCRA and UIC permit programs.

3) The regulations of 35 Ill. Adm. Code 702~~, 703, 704, and~~ through 705 are derived from 40 CFR 124, 144, and 270.

b) Structure.

1) ~~These~~ The regulations of 35 Ill. Adm. Code 702 through 705 comprise the following four Parts:

A) ~~35 Ill. Adm. Code 702~~ This Part contains definitions applicable to 35 Ill. Adm. Code 702~~, 703, 704, and~~ through 705. It also contains basic permitting requirements for the RCRA and UIC programs.

B) The regulations of 35 Ill. Adm. Code 703 ~~contains~~ contain requirements specific to RCRA permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 703, 35 Ill. Adm. Code 703 will control.

C) The regulations of 35 Ill. Adm. Code 704 ~~contains~~ contain requirements specific to UIC permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 704, 35 Ill. Adm. Code 704 will control.

D) The regulations of 35 Ill. Adm. Code 705 ~~establishes~~ establish procedures for issuance of RCRA and UIC permits by the Agency ~~of RCRA and UIC permits~~.

2) ~~35 Ill. Adm. Code 702, 703, and 704 are organized into subparts.~~ The structure and coverage of ~~these Parts is~~ 35 Ill. Adm. Code 702 through 704 are indicated in the following table:

	RCRA AND UIC 35 Ill. Adm. ~~CODE~~ Code 702~~,~~ ~~SUBPART~~ Subpart	RCRA 35 Ill. Adm. ~~CODE~~ Code 703~~,~~ ~~SUBPART~~ Subpart	UIC 35 Ill. Adm. ~~CODE~~ Code 704 ~~SUBPART~~ Subpart
General	A	A	A
Prohibitions	----	B	B
Authorization by Rule	----	C	C
Permit Application	B	D~~ and E~~	D
Special Forms of Permits	----	E	----

Permit Conditions	C	F	E
Issued Permits	D	----	~~---~~H
Permit Modification	----	G	----
Remedial Action Plans	----	H	----
Integration with MACT Standards	----	I	----
RCRA Standardized Permits	----	J	----
Requirements Applicable to Hazardous Waste Injection Wells	----	----	F
Financial Responsibility for Class I Hazardous Waste Injection Wells	----	----	G
Requirements Applicable to Class V Injection Wells	----	----	I

c) Relation to ~~Other Requirements~~ other requirements.

1) Permit ~~Application Forms~~ application forms. ~~Applicants~~ An applicant for a RCRA or UIC ~~permits and persons~~ permit or a person seeking interim status under RCRA must submit ~~their applications~~ its application on an Agency permit application ~~forms~~ form when such is available.

2) Technical ~~Regulations~~ regulations. ~~The~~ Each of the two permit programs that are covered in these permit regulations ~~each have~~ has separate additional regulations that contain technical requirements for ~~those programs~~ that program. These separate regulations are used by the Agency to determine ~~what~~ the requirements that must be placed in ~~permits if they are issued~~ any permit that it issues. These separate regulations are located as follows:

RCRA	35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, and 739
UIC	35 Ill. Adm. Code 730 and 738

BOARD NOTE: Derived in significant part from 40 CFR 144.1 ~~(1993)~~ and 270.1 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.102 ~~Purpose and Scope (Repealed)~~Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is

subject to 35 Ill. Adm. Code 720.104.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.103 ~~Confidentiality of~~ Trade Secret or Non-Disclosable Information Submitted to the Agency or Board

a) In accordance with Section 7 of the Environmental Protection Act [415 ILCS 5/7], and as federally required by 40 CFR 2, a person submitting certain information ~~submitted~~ to the Agency or Board pursuant to ~~these regulations~~ this Part and 35 Ill. Adm. Code 703 through 705 may ~~be claimed~~ claim that information as ~~confidential by the submitter~~ trade secret or non-disclosable information. Any such claim of trade secret or non-disclosable information must be asserted at the time of submission in the manner prescribed by 35 Ill. Adm. Code ~~101.Subpart D and 120~~ 130. If no claim is made at the time of submission, the Agency or Board may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with 35 Ill. Adm. Code ~~120~~ 130 and Board and Agency procedures.

b) Claims of ~~confidentiality~~ trade secret or non-disclosable information for the following information will be denied:

1) The name and address of any permit applicant or permittee;

2) The identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities~~.~~; and

3) For UIC permits, information that deals with the existence, absence, or level of contaminants in drinking water.

BOARD NOTE: Derived from 40 CFR 144.5 ~~(1993)~~ and 270.12 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.104 References

The centralized incorporation by reference provisions of 35 Ill. Adm. Code 720.111 ~~includes~~ include the incorporation of all ~~sources incorporated~~ documents by reference ~~for~~ that are used to establish compliance with the requirements of the Illinois RCRA and UIC programs.

BOARD NOTE: This Section corresponds with 40 CFR 270.6 (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.105 Rulemaking

a) Identical-in-Substance Regulations.

1) Generally applicable federal rules. Twice each year, the Board reserves identical-in-substance rulemaking dockets pursuant to Sections 7.2, 13(c), and 22.4(a) of the Act [415 ILCS 5/7.2, 13(c), and 22.4(a)]~~,~~. The Board's intent is generally to include all federal RCRA or UIC amendments that occurred in ~~either~~ the appropriate of the prior concluded update periods of January 1 through June 30 or July 1 through December 31 ~~of each calendar year~~. The Board reviews the federal actions that occurred in the period of interest and includes those that require Board action in the reserved docket. The Board itself initiates ~~proposed~~ any necessary amendments to the RCRA or UIC program ~~if any are made necessary~~, so no person needs to file a rulemaking proposal ~~is necessary~~ for the included amendments. The Board routinely excludes from these identical-in-substance proposals those federal amendments that pertain to facilities or activities that exist or occur outside Illinois.

2) ~~For any other identical-in-substance rulemaking actions, any~~ The Board does not generally include site-specific federal amendments in an identical-in-substance rulemaking proposal without a request from a member of the regulated community. The owner or operator of a facility subject to a site-specific federal rule that wishes the Board to incorporate that rule into the Illinois regulations should submit a request to the Clerk of the Board for inclusion of that site-specific rule in a future identical-in-substance rulemaking proposal. Any person wishing such inclusion may petition the Board to adopt appropriate amendments to the Illinois RCRA or UIC program pursuant to Sections 7.2 and 13(c) ~~and~~ or 22.4(a) of the Act ~~rules that are identical in substance to federal amendments or regulations pertinent to the Illinois RCRA or UIC program or permit issuance~~. The petition ~~shall~~ must take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 101 and 102. The proposal ~~shall~~ must include a listing of all amendments of interest to the petitioner together with copies of the Federal Register notices on which the amendments are to be based.

b) Other Regulations. With respect to the Illinois RCRA or UIC program or permit issuance, any person may petition the Board to adopt amendments or additional regulations that are not identical in substance to federal regulations. Such proposal ~~shall~~ must conform to 35 Ill. Adm. Code 101 and 102~~, and Title VII~~ and Sections 13(d), 22.4(b) and ~~22.4~~(c), and Title VII of the Act [415 ILCS 5/13(d), 22.4(b), and (c) and Title VII].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.106 Adoption of Agency Criteria

a) The ~~purpose of this section is to authorize the~~ Agency ~~to publish~~ may, in its sole discretion, adopt criteria that will give guidance to the public as to what it will approve in RCRA and UIC permit applications and as to what conditions it will impose in permit issuance. The statutory authority for the Agency adopting such criteria is the Agency's authority to issue permits pursuant to Sections 4 and 39 of the Act [415 ILCS 5/4 and 39], and the requirement of the Administrative Procedure Act [5 ILCS 100] that agencies codify as rules those policies or interpretations of general applicability that affect persons outside the ~~agency as rules~~ Agency.

b) With respect to review of permit applications and establishment of permit conditions, the Agency ~~shall~~ must adopt as criteria any policies and interpretations of general applicability ~~affecting~~ that affect persons outside the Agency.

c) Any criteria that ~~are adopted shall~~ the Agency adopts must include each of the following:

1) Clear references to related provisions of the Act and Board regulations;

2) A statement that the criteria are not Board regulations;

3) A statement that the criteria apply only to review of permit applications and establishment of conditions; and

4) Procedures to be followed if an applicant wishes to deviate from Agency criteria.

d) For purposes of permit issuance, proof of compliance with Agency-adopted criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. However, persons other than the Agency may challenge Agency-adopted criteria as applied in the context of permit issuance.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.107 Permit Appeals and Review of Agency Determinations

Unless the contrary intention is indicated, all actions taken by the Agency ~~under~~ pursuant to 35 Ill. Adm. Code 702 through 704, 721 through ~~726,~~ 728, 730, ~~or~~ 733, 738, or 739 are to be done as part of an original permit application or a proceeding for modification of an issued permit. Such actions are subject to the procedural requirements of 35 Ill. Adm. Code 705.

a) Any final Agency action on an original permit application, ~~or~~ a proceeding for modification of an issued permit, or any action for review of a final Agency determination required by these regulations~~,~~ may be appealed to the Board pursuant to Title X of the Environmental Protection Act [415 ILCS 5/Title X] and 35 Ill. Adm. Code 105 and 705.212.

~~B~~b) Other actions that are not required by these regulations, whether undertaken by the Agency gratuitously or pursuant to a statutory authorization, such as one taken to enforce a bond, insurance policy, or similar instrument of a contractual nature or one intended to guide a regulated person in seeking compliance with the regulations, ~~are not necessarily~~ may not be permit modifications reviewable by the Board. The affected person may seek review of ~~those determinations~~ an Agency determination that is not a permit determination in any court of competent jurisdiction.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.108 Variances and Adjusted Standards

a) The Agency has no authority to issue any permit that is inconsistent with Board regulations. If an applicant seeks a permit that would authorize actions ~~which~~ that are inconsistent with Board regulations, including delayed compliance dates, the applicant should file for either of the following two forms of relief:

1) A petition for a variance pursuant to Title IX of the Environmental Protection Act (Act) [415 ILCS 5/Title IX] and Subtitle B of 35 Ill. Adm. Code 104; or

2) A petition for an adjusted standard pursuant to Section 28.2 of the Act [415 ILCS 5/28.2] and Subtitle D of 35 Ill. Adm. Code ~~106~~ 104.

b) The Agency must file a recommendation within prescribed times following the filing of a petition for a variance or adjusted standard. The recommendation must include a draft of the language the Agency proposes to include in the permit if its recommendation is accepted.

c) If the Board grants a variance or adjusted standard, it will order the Agency to issue or modify the permit pursuant to the variance.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.109 Enforcement Actions

Any person may file a civil complaint with the Board alleging violation of the RCRA or UIC regulations, a permit requirement, or permit conditions, pursuant to Title VIII of the ~~Environmental Protection~~ Act [415 ILCS 5/Title VIII] and 35 Ill. Adm. Code 103.

a) A formal complaint filed with the Board will initiate a civil enforcement action in which the complainant bears the burden of proving that the respondent committed the alleged violations.

b) The Board will forward any informal complaint to the Agency, and the Agency ~~shall~~ must investigate the alleged violations set forth in the complaint.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704, and 705. Terms not defined in this Section have the meaning given by the appropriate ~~Act~~ act and regulations, as such are defined in this Section. ~~When a defined term appears in a definition, the defined term is sometimes placed within quotation marks as an aid to readers.~~ When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

"Act" or "Environmental Protection Act" means the Environmental Protection Act [415 ILCS 5].

"Administrator" means the Administrator of the United States Environmental Protection Agency or an authorized representative.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit. For RCRA, application also includes the information required by the Agency ~~under~~ pursuant to 35 Ill. Adm. Code 703.182 through 703.212 (contents of Part B of the RCRA application).

"Appropriate act and regulations" means the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) (RCRA), the federal Safe Drinking Water Act (42 USC 300f et seq.) (SDWA), or the ~~"~~Environmental Protection Act,~~"~~ whichever is applicable, and the applicable regulations promulgated under those statutes.

"Approved program or approved state" means a state or interstate program that has been approved or authorized by USEPA ~~under~~ pursuant to 40 CFR 271 ~~(1996)~~ (RCRA) or Section 1422 of the SDWA (42 USC 300h-1) (UIC).

"Aquifer" (RCRA and UIC) means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" (UIC) means the area surrounding an injection well described

according to the criteria set forth in 35 Ill. Adm. Code 730.106, or in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

"Board" (RCRA and UIC) means the Illinois Pollution Control Board.

"Cesspool" (UIC) means a drywell that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

"Closure" (RCRA) means the act of securing a Hazardous waste management facility pursuant to ~~the requirements of~~ 35 Ill. Adm. Code 724.

"Component" (RCRA) means any constituent part of a unit or any group of constituent parts of a unit that are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, or kiln thermocouple).

"Contaminant" (UIC) means any physical, chemical, biological, or radiological substance or matter in water.

"Corrective action management unit" or "CAMU" (RCRA) means an area within a facility that is designated by the Agency ~~under~~ pursuant to Subpart S of 35 Ill. Adm. Code ~~724for~~ 724 for the purpose of implementing corrective action requirements ~~under~~ pursuant to 35 Ill. Adm. Code 724.201 and RCRA section 3008(h) (42 USC 6928(h)). A CAMU must only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.
BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

"CWA" (RCRA and UIC) means the Clean Water Act ~~(formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), P.L. 92-500~~(33 USC 1251 et seq.), as amended ~~by P.L. 95-217 and P.L. 95-576; 33 USC 1251 et seq. (1996)~~.

"Date of approval by USEPA of the Illinois UIC program" (UIC) means March 3, 1984.

"Director" (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency or the Director's designee.

"Disposal" (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any ~~"~~hazardous waste~~"~~ into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

"Disposal facility" (RCRA) means a facility or part of a facility at which ~~"~~hazardous waste~~"~~ is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure. The term ~~"~~disposal facility~~"~~ does not include a corrective action management unit into which remediation wastes are placed.

"Draft permit" (RCRA and UIC) means a document prepared ~~under~~ pursuant to 35 Ill. Adm. Code 705.141 indicating the Agency's tentative decision to issue, deny, modify, terminate, or reissue a ~~"~~permit.~~"~~ A notice of intent to deny a permit, as discussed in 35 Ill. Adm. Code 705.141, is a type of ~~"~~draft permit.~~"~~ A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a ~~"~~draft permit.~~"~~ A proposed permit is not a ~~"~~draft permit~~"~~.

"Drywell" (UIC) means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom and sides are typically dry, except when receiving fluids.

"Drilling mud" (UIC) means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.

"Elementary neutralization unit" (RCRA) means a device of which the following is true:

> ~~Is~~ It is used for neutralizing wastes that are hazardous wastes only because they exhibit the corrosivity characteristics defined in 35 Ill. Adm. Code 721.122, or are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and
>
> ~~Meets~~ It meets the definition of tank, tank system, container, transport vehicle, or vessel in 35 Ill. Adm. Code 720.110.

"Emergency permit" (RCRA and UIC) means a RCRA or UIC permit issued in accordance with 35 Ill. Adm. Code 703.221 or 704.163, respectively.

"Environmental Protection Agency" or "EPA" or "USEPA" (RCRA and UIC) means the United States Environmental Protection Agency.

"Exempted aquifer" (UIC) means an aquifer or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures in 35 Ill. Adm. Code 702.105, 704.104, and 704.123(b).

"Existing hazardous waste management (HWM) facility" or "existing facility" (RCRA) means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced

construction if the following occurs:

The owner or operator has obtained the federal, State, and local approvals or permits necessary to begin physical construction; and

Either of the following has transpired:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial loss and which are to be completed within a reasonable time.

"Existing injection well" (UIC) means an injection well ~~other than~~ that is not a new injection well.

"Facility mailing list" (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163(a).

"Facility or activity" (RCRA and UIC) means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to regulations under the Illinois RCRA or UIC program.

~~"Facility mailing list" (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163.~~

"Federal, State, and local approvals or permits necessary to begin physical construction" (RCRA) means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances. ~~(See 35 Ill. Adm. Code 700.102.)~~

"Final authorization" (RCRA) means January 31, 1986, the date of approval by USEPA of the Illinois Hazardous Waste Management Program that has met the requirements of Section 3006(b) of RCRA (42 USC 6926(b)) and the applicable requirements of subpart A of 40 CFR 271~~, Subpart A (1996). USEPA granted initial final authorization on January 31, 1986.~~

"Fluid" (UIC) means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

"Formation" (UIC) means a body of rock characterized by a degree of lithologic homogeneity that is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" (UIC) means fluid present in a formation under natural

conditions, as opposed to introduced fluids, such as "drilling mud."

"Functionally equivalent component" (RCRA) means a component that performs the same function or measurement and which meets or exceeds the performance specifications of another component.

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" (RCRA and UIC) means a water below the land surface in a zone of saturation.

"Hazardous waste" (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" or "HWM facility" (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of "hazardous waste." A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

"HWM facility" (RCRA) means Hazardous waste management facility.

"Improved sinkhole" (UIC) means a naturally occurring karst depression or other natural crevice that is found in volcanic terrain and other geologic settings that have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

"Injection well" (RCRA and UIC) means a well into which fluids are being injected.

"Injection zone" (UIC) means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

"In operation" (RCRA) means a facility that is treating, storing, or disposing of "hazardous waste."

"Interim authorization" (RCRA) means May 17, 1982, the date of approval by USEPA of the Illinois Hazardous Waste Management program that has met the requirements of Section section 3006(g)(2) of RCRA (42 USC 6926(g)(2)) and applicable requirements of 40 CFR 271 (1996). This happened on May 17, 1982.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the "appropriate

~~Act~~ act and regulations.~~"~~

"Major facility" means any RCRA or UIC facility or activity classified as such by the Regional Administrator or the Agency.

"Manifest" (RCRA and UIC) means the shipping document originated and signed by the ~~"~~generator~~"~~ that contains the information required by Subpart B of 35 Ill. Adm. Code 722.

"National Pollutant Discharge Elimination System" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements ~~under~~ pursuant to Section 12(f) of the Environmental Protection Act and Subpart A of 35 Ill. Adm. Code 309 and 35 Ill. Adm. Code 310. The term includes an ~~"~~approved program.~~"~~

"New HWM facility" (RCRA) means a hazardous waste management facility that began operation or for which construction commenced after November 19, 1980.

"New injection well" (UIC) means a well that began injection after March 3, 1984, the date of USEPA approval of the UIC program for the State of Illinois. BOARD NOTE: See 40 CFR 147.700 (1998) and 49 Fed. Reg. 3991 (Feb. 1, 1984).

"Off-site" (RCRA) means any site that is not on-site.

"On-site" (RCRA) means on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the rights-of-way. Non-contiguous properties owned by the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under the RCRA or UIC program.

"Permit" means an authorization, license, or equivalent control document issued to implement ~~the requirements of~~ this Part and 35 Ill. Adm. Code 703, 704, and 705. "Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

~~"Permit" includes RCRA permit by rule (35 Ill. Adm. Code 703.141), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC "Emergency Permit" (35 Ill. Adm. Code 703.221 and 704.163). "Permit" does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.~~

"Person" means 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, agency, or assigns.

"Physical construction" (RCRA) means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept ~~"~~hazardous waste.~~"~~

"Plugging" (UIC) means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

"Point of injection" means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box--the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

"POTW" means publicly owned treatment works.

"Project" (UIC) means a group of wells in a single operation.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.

"Radioactive waste" (UIC) means any waste that contains radioactive material in concentrations that exceed those listed in table II, column 2 in appendix B to 10 CFR 20~~, Appendix B, Table II, Column 2~~, incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" (RCRA) means the ~~Solid Waste Disposal Act as amended by the~~ Resource Conservation and Recovery Act of 1976 (~~P.L. 94-580, as amended by P.L. 95-609, P.L. 96-510,~~ 42 USC 6901 et seq.~~ (1996)~~). For the purposes of regulation ~~under~~ pursuant to 35 Ill. Adm. Code 700 through 705, 720 through 728, 733, 738, and 739, "RCRA" refers only to RCRA Subtitle C. This does not include the RCRA Subtitle D (municipal solid waste landfill) regulations, found in 35 Ill. Adm. Code 810 through 815, and the RCRA Subtitle I (underground storage tank) regulations found in 35 Ill. Adm. Code 731 and 732.

"RCRA permit" (RCRA) means a permit required ~~under~~ pursuant to Section 21(f) of the ~~Environmental Protection~~ Act [415 ILCS 5/21(f)].

"RCRA standardized permit" (RCRA) means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 705 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued for all RCRA standardized permits and a supplemental portion issued at the discretion of the Agency.

"Regional Administrator" (RCRA and UIC) means the Regional Administrator ~~for~~ of the USEPA Region in which the facility is located or the Regional Administrator's designee.
BOARD NOTE: Illinois is in USEPA Region 5.

"Remedial ~~Action Plan~~ action plan" or "RAP" (RCRA) means a special form of RCRA permit that a facility owner or operator may obtain pursuant to Subpart H of 35 Ill. Adm. Code 703, instead of a RCRA permit issued ~~under~~ pursuant to this Part and 35 Ill. Adm. Code 703, to authorize the treatment, storage, or disposal of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site.

"Sanitary waste" (UIC) means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

"Schedule of compliance" (RCRA and UIC) means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate ~~Act~~ act and regulations.

"SDWA" (UIC) means the Safe Drinking Water Act (~~P.L. 93-523, as amended,~~ 42 USC 300f et seq. ~~(1996)~~).

"Septic system" (UIC) means a well, as defined in this Section, that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

"Site" (RCRA and UIC) means the land or water area where any facility or

activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"SIC code" (RCRA and UIC) means ~~codes pursuant to the~~ "Standard Industrial Classification code." This is the code assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication, "Standard Industrial Classification Manual," incorporated by reference in 35 Ill. Adm. Code 720.111.

"State" (RCRA and UIC) means the State of Illinois.

"State Director" (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency.

"State/USEPA agreement" (RCRA and UIC) means an agreement between the Regional Administrator and the State that coordinates USEPA and State activities, responsibilities, and programs, including those under the RCRA and SDWA.

"Storage" (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"Stratum" (plural "strata")~~"~~ (UIC) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Subsurface fluid distribution system" (UIC) means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

"Total dissolved solids" (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR ~~136~~ 136.3 (Identification of Test Procedures; the method for filterable residue), incorporated by reference in 35 Ill. Adm. Code 720.111.

"Transfer facility" (RCRA) means any transportation related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous wastes are held during the normal course of transportation.

"Transferee" (UIC) means the owner or operator receiving ownership or operational control of the well.

"Transferor" (UIC) means the owner or operator transferring ownership or operational control of the well.

"Transporter" (RCRA) means a person engaged in the off-site transportation of "hazardous waste" by air, rail, highway, or water.

"Treatment" (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical, or biological character or composition of any "hazardous waste" so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

"UIC" (UIC) means the Underground Injection Control program.

"Underground injection" (UIC) means a well injection.

"Underground source of drinking water" ~~(~~or "USDW"~~)~~ (RCRA and UIC) means an aquifer or its portion that is not an exempted aquifer and of which either of the following is true:

It supplies any public water system; or

It contains a sufficient quantity of groundwater to supply a public water system; and

It currently supplies drinking water for human consumption; or

It contains less than 10,000 ~~mg/1~~ mg/ℓ total dissolved solids.

"USDW" (RCRA and UIC) means an underground source of drinking water.

"Wastewater treatment unit" (RCRA) means a device ~~that~~ of which the following is true:

~~Is~~ It is part of a wastewater treatment facility that is subject to regulation ~~under~~ pursuant to Subpart A of 35 Ill. Adm. Code 309 or 35 Ill. Adm. Code 310; and

~~Receives~~ It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

~~Meets~~ It meets the definition of tank or tank system in 35 Ill. Adm. Code 720.110.

"Well" (UIC) means a bored, drilled, or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension; a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

~~Well injection means the subsurface emplacement of fluids through a well.~~

"Well injection" (UIC) means the subsurface emplacement of fluids through a well.

BOARD NOTE: Derived from 40 CFR 124.2, 144.3 ~~(1999), as amended at 64 Fed. Reg. 68565 (Dec. 7, 1999),~~ and 270.2 ~~(1999)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATIONS

Section 702.120 Permit Application

a) Applying for a UIC permit. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Agency as described in this Section and in ~~35 Ill. Adm. Code 703.180 (RCRA) and~~ 35 Ill. Adm. Code 704.161 (UIC). ~~Persons~~ Any person who is currently authorized with ~~interim status under RCRA (35 Ill. Adm. Code 703.Subpart C) or~~ UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704~~.Subpart C~~) ~~shall~~ must apply for ~~permits~~ a permit when required to do so by the Agency. ~~Persons covered by RCRA permits by rule (35 Ill. Adm. Code 703.141) need not apply. Procedures~~ The procedure for ~~applications~~ application, issuance, and administration of an emergency ~~permits are~~ permit is found exclusively in ~~35 Ill. Adm. Code 703.221 (RCRA) and~~ 35 Ill. Adm. Code 704.163 (UIC). ~~Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in 35 Ill. Adm. Code 703.231 (RCRA).~~

b) Applying for a RCRA permit. The following information outlines how to obtain a permit and where to find requirements for specific permits:

1) If the facility is covered by RCRA permits by rule (35 Ill. Adm. Code 703.141), the owner or operator needs not apply for a permit.

2) If the facility owner or operator currently has interim status pursuant to RCRA (Subpart C of 35 Ill. Adm. Code 703), it must apply for a permit when required by the Agency.

3) If the facility owner or operator is required to have a permit (including

new applicants and permittees with expiring permits), it must complete, sign, and submit an application to the Agency, as described in this Section; in Sections 702.120 through 702.124; and in 35 Ill. Adm. Code 703.125, 703.126, 703.150 through 703.157, 703.186, and 703.188.

4) If the facility owner or operator is seeking an emergency permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.220.

5) If the facility owner or operator is seeking a research, development, and demonstration permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.231.

6) If the facility owner or operator is seeking a RCRA standardized permit, the procedures for application and issuance are found in Subpart G of 35 Ill. Adm. Code 705 and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: ~~Derived~~ Subsection (a) of this Section is derived from 40 CFR 144.31(a) ~~(1993)~~ (2005), and subsection (b) of this Section is derived from 40 CFR 270.10(a) ~~(1992)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.122 Completeness

The Agency ~~shall~~ must not issue a permit under a program (RCRA or UIC) before receiving a complete application for a permit under that program, except for emergency permits. An application for a permit under a program is complete when the Agency receives an application form and any supplemental information that is completed to its satisfaction. (35 Ill. Adm. Code 705.122). An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in 35 Ill. Adm. Code 703.186 (RCRA).

BOARD NOTE: Derived from 40 CFR 144.31(d) ~~(1993)~~ and 270.10(c) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.123 Information Requirements

~~All applicants~~ An applicant for a RCRA or UIC ~~permits shall~~ permit must provide the following information to the Agency, using the application form provided by the Agency (additional information required of applicants is set forth in Subpart D of 35 Ill. Adm. Code 703~~.Subpart D~~ (RCRA) and 35 Ill. Adm. Code 704.161 (UIC)).

a) The activities conducted by the applicant that require it to obtain ~~permits~~ a permit under RCRA or UIC.

b) ~~Name,~~ The name, mailing address, and location of the facility for which the application is submitted.

c) Up to four SIC codes that best reflect the principal products or services provided by the facility.

d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

e) The name, address, and phone number of the owner of the facility.

f) A listing of all permits or construction approvals received or applied for under any of the following programs:

1) ~~Hazardous Waste Management~~ The hazardous waste management program under RCRA, this Part, and 35 Ill. Adm. Code 703~~.~~;

2) The UIC program under SDWA, this Part, and 35 Ill. Adm. Code 704~~.~~;

3) The National Pollutant Discharge Elimination System (NPDES) program under the federal CWA (33 USC 1251 et seq.) and 35 Ill. Adm. Code 309~~.~~;

4) The Prevention of Significant Deterioration (PSD) program under the federal Clean Air Act~~.~~ (42 USC 7401 et seq.);

5) ~~Nonattainment~~ The nonattainment program under the federal Clean Air Act~~.~~;

6) The National Emission Standards for Hazardous Pollutants ~~(NESHAPS)~~ (NESHAPs) preconstruction approval under the federal Clean Air Act~~.~~;

7) ~~Ocean~~ Any ocean dumping permits under the federal Marine Protection Research and Sanctuaries Act~~.~~ (33 UCS 1401 et seq.);

8) ~~Dredge~~ Any dredge or fill permits under Section 404 of CWA~~.~~ (33 USC 1344); and

9) ~~Other~~ Any other relevant environmental permits, including ~~Illinois~~ any State-issued permits.

g) A topographic map (or other map if a topographic map is unavailable) extending 1609 meters (one mile) beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or which are otherwise

known to the applicant within 402 meters (~~one fourth~~ one-quarter mile) of the facility property boundary.

h) A brief description of the nature of the business.

BOARD NOTE: Derived from 40 CFR 144.31(e)~~(1993),~~ ~~and~~ 270.10(d), and 270.13 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.124 Recordkeeping

~~Applicants~~ An applicant ~~shall~~ must keep records of all data used to complete permit applications and any supplemental information submitted ~~under~~ pursuant to 35 Ill. Adm. Code 702.123, Subpart D of 35 Ill. Adm. Code 703~~. Subpart D~~ (RCRA); and 35 Ill. Adm. Code 704.161 (UIC) for a period of at least ~~3~~ three years from the date the application is signed.

BOARD NOTE: Derived from 40 CFR 144.31(f) and 270.10(i) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.125 Continuation of Expiring Permits

a) The conditions of an expired permit continue in force until the effective date of a new permit (see 35 Ill. Adm. Code 705.201) if both of the following conditions are fulfilled:

1) The permittee has submitted a timely application ~~under~~ pursuant to 35 Ill. Adm. Code 703.181 (RCRA) or 704.161 (UIC) that is a complete (~~under~~ pursuant to Section 702.122) application for a new permit; and

2) The Agency, through no fault of the permittee, does not issue a new permit with an effective date ~~under~~ pursuant to 35 Ill. Adm. Code 705.201 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

b) Effect. Permits continued ~~under~~ pursuant to this ~~section~~ Section remain fully effective and enforceable.

c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Agency may choose to do any or all of the following:

1) Initiate enforcement action based upon the permit that has been continued;

2) Issue a notice of intent to deny the new permit ~~under~~ pursuant to 35 Ill.

Adm. Code 705.141. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

3) Issue a new permit ~~under~~ pursuant to 35 Ill. Adm. Code 705 with appropriate conditions; or

4) Take other actions authorized by the Environmental Protection Act [415 ILCS 5], or regulations adopted thereunder.

d) This subsection (d) corresponds with 40 CFR 144.37(d) and 270.51(d), which pertain to continuation of USEPA-issued permits until disposition of a permit application filed with an authorized state. A corresponding provision is unnecessary in the Illinois regulations. This statement maintains structural consistency with the corresponding federal rules.

e) RCRA standardized permits.

1) The conditions of an owner's or operator's expired RCRA standardized permit continue until the effective date of its new permit (see 35 Ill. Adm. Code 705.201) if all of the following conditions are fulfilled:

A) If the Agency is the permit-issuing authority;

B) If the owner or operator has submitted a timely and complete Notice of Intent pursuant to 35 Ill. Adm. Code 705.301(a)(2) requesting coverage under a RCRA standardized permit; and

C) If the Agency, through no fault of the owner or operator, does not issue the permit before the previous permit expires (for example, where it is impractical to make the permit effective by that date because of time or resource constraints).

2) In some instances, the Agency may notify the owner or operator that it is not eligible for a RCRA standardized permit (see 35 Ill. Adm. Code 705.302(c)). In such an instance, the conditions of the owner's or operator's expired permit will continue if the owner or operator submits the information specified in subsection (a)(1) of this Section (that is, a complete application for a new permit) within 60 days after it receives an Agency notification that the owner or operator is not eligible for a RCRA standardized permit.

BOARD NOTE: Derived from 40 CFR 144.37 ~~(1993)~~ and 270.51 ~~(1992)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.126 Signatories to Permit Applications and Reports

a) Applications. ~~All applications shall~~ A permit application must be signed as follows:

1) For a corporation: a permit application must be signed by a responsible corporate officer. For the purpose of this ~~section~~ Section, a responsible corporate officer means either of the following persons:

A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person that performs similar policy or ~~decision making~~ decision-making functions for the corporation~~,~~; or

B) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

BOARD NOTE: The Board does not require specific assignments or delegations of authority to responsible corporate officers identified in subsection (a)(1)(A) of this Section. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications, unless the corporation has notified the Agency to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions ~~under~~ pursuant to subsection (a)(1)(B) of this Section, rather than to specific individuals.

2) For a partnership or sole proprietorship: a permit application must be signed by a general partner or the proprietor, respectively; or

3) For a municipality, State, federal, or other public agency: a permit application must be signed by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes either of the following persons:

A) The chief executive officer of the agency, or

B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA).

b) Reports. All reports required by permits or other information requested by the Agency ~~shall~~ must be signed by a person described in subsection (a) of this Section, or by a duly authorized representative of that person. A person is a duly authorized representative only if each of the following conditions are fulfilled:

1) The authorization is made in writing by a person described in subsection (a) of this Section;

2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

3) The written authorization is submitted to the Agency.

c) Changes to authorization. If an authorization ~~under~~ pursuant to subsection (b) of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.

d) Certification.

1) Any person signing a document ~~under~~ pursuant to subsection (a) or (b) of this Section ~~shall~~ must make the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons that manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

2) Alternative owner certification. For remedial action plans (RAPs) ~~under~~ pursuant to Subpart H of this Part, if the operator certifies according to subsection (d)(1) of this Section, then the owner may choose to make the following certification instead of the certification in subsection (d)(1) of this

Section:

Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons that manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Derived from 40 CFR 144.32 ~~(1998)~~ and 270.11 ~~(1998), as amended at 63 Fed. Reg. 65941 (Nov. 30, 1998)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: PERMIT CONDITIONS

Section 702.140 Conditions Applicable to all Permits

The conditions of this Subpart C apply to all RCRA and UIC permits. For additional conditions applicable to all permits for each of the programs individually, see Subpart F of 35 Ill. Adm. Code 703~~.Subpart F~~ (RCRA) and Subpart E of 704~~.Subpart E~~ (UIC). All conditions applicable to all permits~~,~~ and all additional conditions applicable to all permits for individual programs~~,~~ ~~shall~~ must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.51 preamble ~~(1993)~~ and 270.30 preamble ~~(1992)~~ (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.141 Duty to Comply

The permittee must comply with all conditions of ~~this~~ its permit. Any permit noncompliance constitutes a violation of the Illinois Environmental Protection Act and is grounds for one or more of the following actions: for an enforcement action~~;~~, for permit revocation or modification~~;~~, or for denial of a permit renewal application.

BOARD NOTE: Sections 703.242 (RCRA) and 704.181(a) (UIC) contain additional information on operation under an emergency permit. Derived from 40 CFR 144.51(a) ~~(1993)~~ and 270.30(a) ~~(1992)~~ (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.142 Duty to Reapply

If ~~the~~ a permittee wishes to continue an activity regulated by ~~this~~ its permit after the expiration date of ~~this~~ the permit, the permittee must apply for and obtain a new permit.

BOARD NOTE: Derived from 40 CFR 144.51(b) ~~(1993)~~ and 270.30(b) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.143 Need to Halt or Reduce Activity Not a Defense

It ~~shall~~ will not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of ~~this~~ its permit.

BOARD NOTE: Derived from 40 CFR 144.51(c) ~~(1993)~~ and 270.30(c) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.144 Duty to Mitigate

a) For RCRA permits, in the event of noncompliance with ~~the~~ its permit, the permittee ~~shall~~ must take all reasonable steps to minimize releases to the environment, and ~~shall~~ must carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

b) For UIC permits, the permittee ~~shall~~ must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from non-compliance with ~~the~~ its permit.

BOARD NOTE: Derived from 40 CFR 144.51(d) ~~(1993)~~ and 270.30(d) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.145 Proper Operation and Maintenance

The permittee ~~shall~~ must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of ~~this~~ its permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. ~~This provision~~ Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

BOARD NOTE: Derived from 40 CFR 144.51(e) ~~(1993)~~ and 270.30(e) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.146 Permit Actions

~~This~~ A permit may be modified or revoked for cause. The filing of a request by the permittee for a permit modification or ~~revocation~~ reissuance, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

BOARD NOTE: Derived from 40 CFR 144.51(f) ~~(1993)~~ and 270.30(f) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.147 Property Rights

~~This~~ A permit ~~does not convey any~~ conveys no property rights of any sort, ~~or~~ nor does a permit convey any exclusive privilege.

BOARD NOTE: Derived from 40 CFR 144.51(g) ~~(1993)~~ and 270.30(g) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.148 Duty to Provide Information

~~The~~ A permittee ~~shall~~ must furnish to the Agency, within a reasonable time, any relevant information that the Agency may request to determine whether cause exists for modifying~~, revoking and~~ or reissuing~~, or terminating~~ this permit or to determine compliance with this permit. The permittee ~~shall~~ must also furnish to the Agency, upon request, copies of records required to be kept by this permit.

BOARD NOTE: Derived from 40 CFR 144.51(h) ~~(1993)~~ and 270.30(h) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.149 Inspection and Entry

~~The~~ A permittee ~~shall~~ must allow an authorized representative of the Agency, upon the presentation of credentials and other documents as may be required by law, to do any of the following:

a) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Act, any substances or parameters at any location.

BOARD NOTE: Derived from 40 CFR 144.51(i) ~~(1993)~~ and 270.30(i) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.150 Monitoring and Records

a) Samples and measurements taken for the purpose of monitoring ~~shall~~ must be representative of the monitored activity.

b) The permittee ~~shall~~ must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation~~,~~; copies of all reports required by ~~this~~ its permit~~,~~; and records of all data used to complete the application for ~~this~~ its permit~~,~~ for a period of at least ~~3~~ three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Agency at any time.

c) Records of monitoring information ~~shall~~ must include all of the following information:

1) The date, exact place, and time of sampling or measurements;

2) The ~~individual(s)~~ individuals who performed the sampling or measurements;

3) The ~~date(s)~~ dates analyses were performed;

4) The ~~individual(s)~~ individuals who performed the analyses;

5) The analytical techniques or methods used; and

6) The results of such analyses.

BOARD NOTE: Derived from 40 CFR 144.51(j) ~~(1993)~~ and 270.30(j) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.151 Signature Requirements

All ~~application~~ applications, reports, or information submitted to the Agency ~~shall~~ must be signed and certified in accordance with ~~the requirements of~~ Section 702.126.

BOARD NOTE: Derived from 40 CFR 144.51(k) ~~(1993)~~ and 270.30(k) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.152 Reporting Requirements

a) Planned changes. The permittee ~~shall~~ must give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.

b) Anticipated noncompliance. The permittee ~~shall~~ must give advance notice to the Agency of any planned changes in the permitted facility or activity ~~which~~ that may result in noncompliance with permit requirements. For RCRA, see also 35 Ill. Adm. Code 703.247.

c) Transfers. This permit is not transferable to any person, except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)

d) Monitoring reports. Monitoring results ~~shall~~ must be reported at the intervals specified in the permit.

e) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit ~~shall~~ must be submitted no later than specified in Section 702.162.

f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).

g) Other noncompliance. The permittee ~~shall~~ must report all instances of noncompliance not reported ~~under~~ pursuant to subsections (d), (e), and (f) of this Section at the time monitoring reports are submitted. The reports ~~shall~~ must contain the information referenced in subsection (f) of this Section.

h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it ~~shall~~ must promptly submit such facts or information.

BOARD NOTE: Derived from 40 CFR 144.51(l) and 270.30(l) ~~(1988)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.160 Establishing Permit Conditions

a) In addition to conditions required in permits for both programs (Sections 702.140 through 702.152), the Agency ~~shall~~ must establish conditions in RCRA and UIC permits, as required on a case-by-case basis, ~~in RCRA and UIC permits under~~ pursuant to Section 702.150 (monitoring and records), Section 702.161 (duration of permits), Section 702.162 (schedules of compliance), Section 702.163 (alternate schedules of compliance), and Section 702.164 (Recording and Reporting). For UIC only, permits for owners and operators of hazardous waste injection wells must include conditions meeting the requirements of 35 Ill. Adm. Code 704.201 through 704.203 (requirements for wells injecting hazardous waste), 704.189 (financial responsibility), and 704.191 (additional conditions), and Subpart G of 35 Ill. Adm. Code 730~~.Subpart G~~ (criteria and standards applicable to Class I hazardous waste injection wells). Permits for other wells must contain the requirements set forth in Subpart E of 35 Ill. Adm. Code 704~~.Subpart E~~ (permit conditions) when applicable.

b) Additional conditions.

1) In addition to conditions required in all permits for a particular program (Subpart F of 35 Ill. Adm. Code 703~~.Subpart F~~ for RCRA and Subpart C of 35 Ill. Adm. Code 704~~.Subpart C~~ for UIC), the Agency ~~shall~~ must establish conditions in permits for the individual programs, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the appropriate ~~Act~~ act and regulations.

2) An applicable requirement is a statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. The provisions of 35 Ill. Adm. Code 705.184 (reopening of comment period) ~~provides~~ provide a means for reopening permit proceedings at the discretion of the Agency where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement that takes effect prior to the modification of a permit, to the extent allowed in 35 Ill. Adm. Code 705.201.

3) ~~New~~ A new or reissued ~~permits~~ permit, and a modified permit to the extent allowed ~~under~~ pursuant to 35 Ill. Adm. Code 705.201 ~~modified permits~~, ~~shall~~ must incorporate each of the applicable requirements referenced in Subpart F of 35 Ill. Adm. Code 703~~.241 et seq.~~ (RCRA) and Subpart E of 35 Ill. Adm. Code 704~~.182 through 704.191~~ (UIC).

c) Incorporation. All permit conditions ~~shall~~ must be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

BOARD NOTE: Derived from 40 CFR 144.52 ~~(1993)~~ and 270.32 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.161 Duration of Permits

a) Permit duration.

1) RCRA. A RCRA ~~permits shall~~ permit must be effective for a fixed term~~,~~ to be determined by the Agency on a case-by-case basis, but not to exceed ten years.

2) UIC. A UIC ~~permits~~ permit for a Class I ~~and~~ or Class V ~~wells shall~~ injection well must be effective for a fixed term~~,~~ to be determined by the Agency on a case-by-case basis, but not to exceed ten years. A UIC ~~permits~~ permit for a Class III ~~wells~~ injection well ~~shall~~ must be issued for a period not to exceed five years; provided, however, that the Agency ~~shall~~ must, without requiring a new application, renew such permits for a period not to exceed five years per renewal, unless the Agency determines that the permit should be modified, ~~revoked,~~ reissued, or a minor modification made, as provided in Sections 702.183 through 702.187, in which case the permittee ~~shall be required to~~ must file a new permit application.

b) Except as provided in Section 702.125, the term of a permit ~~shall~~ must not be extended by modification beyond the maximum duration specified in this Section.

c) The Agency may issue any permit for a duration that is less than the full allowable term ~~under~~ pursuant to this Section.

d) The Agency ~~shall~~ must review each RCRA permit for a land disposal facility no later than five years after the date of permit issuance or reissuance, and ~~shall~~ the Agency must modify the permit as necessary, as provided in Section 702.183 and 702.184.

BOARD NOTE: Derived from 40 CFR 144.36 ~~(1993)~~ and 270.50 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.162 Schedules of Compliance

The permit may, when appropriate, specify a schedule of compliance leading to compliance with

the appropriate ~~Act~~ act and regulations.

a) Time for compliance. Any schedules of compliance ~~under~~ pursuant to this ~~section shall~~ Section must require compliance as soon as possible. For UIC, in addition, schedules of compliance ~~shall~~ must require compliance not later than ~~3~~ three years after the effective date of the permit.

b) Interim dates. If a permit establishes a schedule of compliance that exceeds ~~1~~ one year from the date of permit issuance, the schedule ~~shall~~ must set forth interim requirements and the dates for their achievement.

1) The time between interim dates ~~shall~~ must not exceed ~~1~~ one year.

2) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than ~~1~~ one year and is not readily divisible into stages for completion, the permit ~~shall~~ must specify interim dates for the submission of reports of progress toward compliance of the interim requirements and indicate a projected completion date.

c) Reporting. A RCRA permit ~~shall~~ must be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee ~~shall~~ must notify the Agency in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit ~~shall~~ must be written to require that if subsection (a) ~~above~~ of this Section is applicable progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

d) The Agency may not permit a schedule of compliance involving violation of regulations adopted by the Board unless the permittee has been granted a variance. To avoid delay, an applicant seeking a schedule of compliance should file a variance petition pursuant to Subpart B of 35 Ill. Adm. Code 104 at the same time the permit application is filed.

BOARD NOTE: Derived from 40 CFR 144.53(a) ~~(1993)~~ and 270.33(a) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.163 Alternative Schedules of Compliance

A RCRA or UIC permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment or storage HWM facilities, by closing pursuant to applicable requirements; ~~or,~~ for disposal HWM facilities, by closing and conducting post-closure care pursuant to applicable requirements; or, for UIC wells, by plugging and abandonment), rather than ~~continue~~ continuing to operate and meet permit requirements as follows:

a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued, either of the following must occur:

1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

2) The permittee ~~shall~~ must cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit ~~shall~~ must contain a schedule leading to termination that will ensure timely compliance with applicable requirements.

c) If the permittee is undecided whether to cease conducting regulated activities, the Agency may issue or modify a permit to contain two alternative schedules, as follows:

1) Both schedules ~~shall~~ must contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

2) One schedule ~~shall~~ must lead to timely compliance with applicable requirements;

3) The second schedule ~~shall~~ must lead to cessation of regulated activities by a date that will ensure timely compliance with applicable requirements.

4) Each permit containing two alternative schedules ~~shall~~ must include a requirement that, after the permittee has made a final decision ~~under~~ pursuant to subsection (c)(1) ~~above~~ of this Section, it ~~shall~~ must follow the schedule leading to compliance, if the decision is to continue conducting regulated activities, ~~and~~ or follow the schedule leading to termination, if the decision is to cease conducting regulated activities.

d) The applicant's or permittee's decision to cease conducting regulated activities ~~shall~~ must be evidenced by a firm public commitment satisfactory to the Agency, such as a written resolution of the board of directors of a corporation.

BOARD NOTE: Derived from 40 CFR 144.53(b) ~~(1993)~~ and 270.33(b) ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.164 Recording and Reporting

~~All permits shall~~ A permit must specify the following:

a) Requirements ~~concerning~~ as to the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods, when appropriate);

b) Required monitoring, including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity including, when appropriate, continuous monitoring; and

c) Applicable reporting requirements based ~~upon~~ on the impact of the regulated activity and as specified in 35 Ill. Adm. Code 724 (RCRA) and 35 Ill. Adm. Code 730 (UIC). Reporting ~~shall~~ must be no less frequent than specified in the above regulations.

BOARD NOTE: Derived from 40 CFR 144.54 ~~(1993)~~ and 270.31 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: ISSUED PERMITS

Section 702.181 Effect of a Permit

a) The existence of a RCRA or UIC permit does not constitute a defense to a violation of the Environmental Protection Act or this Subtitle G, except for prohibitions against development, modification, or operation without a permit. However, a permit may be modified~~, reissued,~~ or ~~revoked~~ reissued during its term for cause, as set forth in Subpart G of 35 Ill. Adm. Code 703~~.270 through 703.273~~ (RCRA) or Subpart H of 35 Ill. Adm. Code 704~~.261 through 704.263~~ (UIC) and Section 702.186.

BOARD NOTE: 40 CFR 270.4(a) differs from this subsection (a) in two significant aspects: (1) it states that compliance with the permit is compliance with federal law, and (2) it enumerates exceptions when compliance with the permit can violate federal law. The exceptions are intervening (1) statutory requirements; (2) 40 CFR 268 land disposal restrictions; (3) 40 CFR 264 leak detection requirements; and (4) subparts AA, BB, and CC of 40 CFR 266~~, subparts AA, BB, and CC~~ air emissions limitations. By not codifying the federal exceptions, since they are not necessary in the Illinois program to accomplish the intended purpose, the Board does not intend to imply that compliance with a RCRA permit obviates immediate compliance with any of the events included in the federal exceptions.

b) The issuance of a permit does not convey ~~any~~ property rights of any sort, ~~or~~ nor does issuance convey any exclusive privilege.

c) The issuance of a permit does not authorize ~~any~~ injury to persons or property or invasion of other private rights, ~~or~~ nor does issuance authorize any infringement of State or local law or regulations, except as noted in subsection (a) ~~above~~ of this Section.

BOARD NOTE: Derived from 40 CFR 144.35 ~~(1994)~~ and 40 CFR 270.4 ~~(1994), as amended at 59 Fed. Reg. 62952 (Dec. 6, 1994)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 702.186 Revocation

The Board will revoke a permit during its term in accordance with Title VIII of the Environmental Protection Act [415 ILCS 5/Title VIII] for the following causes:

a) The permittee's violation of the Environmental Protection Act [415 ILCS 5] or regulations adopted thereunder;

b) Noncompliance by the permittee with any condition of the permit;

c) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, reissuance, or revocation.

BOARD NOTE: Derived from 40 CFR 270.43 and 144.40 ~~(1988)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
703.100 Scope and Relation to Other Parts

SUBPART B: PROHIBITIONS

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

SUBPART D: APPLICATIONS

SUBPART E: ~~SHORT TERM AND PHASED~~ SPECIAL FORMS OF PERMITS

SUBPART F: PERMIT CONDITIONS OR DENIAL

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SUBPART H: REMEDIAL ACTION PLANS

SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARDS

SUBPART J: RCRA STANDARDIZED PERMITS FOR STORAGE AND TREATMENT UNITS

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

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January

15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13,
2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 703.100 Scope and Relation to Other Parts

a) This Part requires RCRA permits, pursuant to Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)], for hazardous waste management (HWM) facilities, which may include one or more treatment, storage, or disposal (TSD) units. This Part also contains specific rules on applications for and issuance of RCRA permits;

b) The provisions of 35 Ill. Adm. Code 702 ~~contains~~ contain general provisions on applications for and issuance of RCRA permits. The provisions of 35 Ill. Adm. Code 705 ~~contains~~ contain procedures to be followed by the Illinois Environmental Protection Agency (Agency) in issuing RCRA permits;

c) The definitions of 35 Ill. Adm. Code 702.110 apply to this Part. 35 Ill. Adm. Code 720 contains definitions applicable to the RCRA operating standards of 35 Ill. Adm. Code 720 through 728, 733, 738, and 739. 35 Ill. Adm. Code 721 defines “solid waste” and “hazardous waste”;

d) The standards of 35 Ill. Adm. Code 724 and 725 apply to HWM facilities required to have RCRA permits. The provisions of 35 Ill. Adm. Code 722 and 723 contain

standards applicable to generators and transporters of hazardous waste.

e) The standards of 35 Ill. Adm. Code 727 set forth the specific procedural requirements for a RCRA standardized permit, which alter the applicability of this Part and 35 Ill. Adm. Code 702 and 705 in several regards as specified in the affected provisions. A TSD that is otherwise subject to permitting under RCRA and which meets the criteria in subsection (e)(1) or (e)(2) of this Section, may be eligible for a RCRA standardized permit pursuant to Subpart J of this Part.

1) The facility generates hazardous waste and then non-thermally treats or stores hazardous waste on-site in tanks, containers, or containment buildings; or

2) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and the facility stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

BOARD NOTE: Subsection (e) of this Section is derived from the final sentence of 40 CFR 124.1(b), the second sentence of 40 CFR 270.1(b), and 40 CFR 270.1(b)(1) and (b)(2) (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

The following persons are among those that are not required to obtain a RCRA permit:

a) ~~Generators~~ A generator that ~~accumulate~~ accumulates hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;

b) ~~Farmers~~ A farmer that ~~dispose~~ disposes of hazardous waste pesticides from ~~their~~ the farmer's own use, as provided in 35 Ill. Adm. Code 722.170;

c) ~~Persons~~ A person that ~~own~~ owns or ~~operate facilities~~ operates a facility solely for the treatment, storage, or disposal of hazardous waste excluded from regulations ~~under~~ pursuant to this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);

d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;

f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

g) A person ~~who~~ that adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person ~~who~~ that adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and

h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through (h)(5) of this Section. Such a handler or transporter is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 733.

1) Batteries, as described in 35 Ill. Adm. Code 733.102;

2) Pesticides, as described in 35 Ill. Adm. Code 733.103;

3) ~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

4) Lamps, as described in 35 Ill. Adm. Code 733.105.

~~5) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (h)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.125 ~~Reapplications~~Reapplying for a Permit

~~Any HWM facility with an effective permit must submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Agency. (The Agency must not grant permission for applications to be submitted later than the expiration date of the existing permit.)~~

If a facility owner or operator has an effective permit and it wants to reapply for a new one, it has the following two options:

a) The owner or operator may submit a new application at least 180 days before the expiration date of the effective permit, unless the Agency allows a later date; or

b) If the owner or operator intends to be covered by a RCRA standardized permit, it may submit a Notice of Intent, as described in 35 Ill. Adm. Code 702.125(e)(1) at least 180 days before the expiration date of the effective permit, unless the Agency allows a later date. The Agency may not allow the owner or operator to submit an application or Notice of Intent later than the expiration date of the existing permit, except as allowed by 35 Ill. Adm. Code 702.125(e)(2).

BOARD NOTE: Derived from 40 CFR 270.10(h) ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATIONS

Section 703.184 Facility Location Information

a) In order to show compliance with the facility location requirements of Section 21(~~l~~1) of the Environmental Protection Act [415 ILCS 5/21(~~l~~1)], the owner or operator must include the following information, or a demonstration that Section 21(~~l~~1) does not apply:

1) ~~Location~~ The location of any active or inactive shaft or tunneled mine below the facility;

2) ~~Location~~ The location of any active faults in the earth's crust within two miles of the facility boundary;

3) ~~Location~~ The location of existing private wells or existing sources of a public water supply within 1000 feet of any disposal unit boundary;

4) ~~Location~~ The location of the corporate boundaries of any municipalities within one and one-half miles of the facility boundary;

BOARD NOTE: Subsections (a)(1), (a)(2), (a)(3), and (a)(4) of this Section request information necessary to allow the Agency to determine the applicability of Section 21(l) of the Environmental Protection Act [415 ILCS 5/21(l)] requirements. These provisions are not intended to modify the requirements of the Act. For example, the operator is required to give the location of wells on its own property, even though the Agency might find that these do not prohibit the site location.

5) Documentation showing approval of municipalities if such approval is required by Section 21(l) of the Environmental Protection Act [415 ILCS 5/21(l)];

b) This subsection (b) corresponds with 40 CFR 270.14(b)(11)(ii), which pertains exclusively to facilities located in certain federally listed seismic zones, none of which is in Illinois. This statement maintains structural consistency with the corresponding federal rules;

c) ~~An~~ A facility owner or operator ~~of all facilities~~ must provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant flood map produced by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP), if used, or the calculations and maps used where a NFIP map is not available. Information must also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) that must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood;

BOARD NOTE: NFIP maps are available as follows: Flood Map Distribution Center, National Flood Insurance Program, Federal Emergency Management Agency, 6930 (A-F) San Tomas Road, Baltimore, MD 21227-6227. 800-638-6620; and, Illinois Floodplain Information Depository, State Water Survey, 514 WSRC, University of Illinois, Urbana, IL 61801. 217-333-0447. Where NFIP maps are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the NFIP map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where NFIP maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what is the 100-year flood elevation.

d) An owner or operator of ~~facilities~~ a facility located in the 100-year floodplain must provide the following information:

1) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;

2) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

3) If applicable, and in lieu of subsections (d)(1) and (d)(2) of this Section, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including the following:

A) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

B) A description of the locations to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with 35 Ill. Adm. Code 702, 703, and 724~~, and 725~~ through 727;

C) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

D) The potential for accidental discharges of the waste during movement;

e) An owner or operator of an existing ~~facilities~~ facility not in compliance with 35 Ill. Adm. Code 724.118(b) must provide a plan showing how the facility will be brought into compliance and a schedule for compliance. Such an owner or operator must file a concurrent variance petition with the Board; and

f) An owner or operator of a new regional pollution control facility, as defined in Section 3 of the Environmental Protection Act [415 ILCS 5/3], must provide documentation showing site location suitability from the county board or other governing body as provided by Section 39(c) and 39.2 of that Act [415 ILCS 5/39(c) and 39.2].

BOARD NOTE: Subsections ~~(b)~~ (c) through (e) of this Section are derived from 40 CFR 270.14(b)(11)(iii) through (b)(11)(v) ~~(2002)~~ (2005). The Board has not codified an equivalent to 40 CFR 270.14(b)(11)(i) and (b)(11)(ii), relating to certain seismic zones not located within Illinois.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.188 Other Information

The Agency may require a permittee or applicant to submit information in order to establish

permit conditions ~~under~~ pursuant to Section 703.241(a)(2) (conditions necessary to adequately protect human health and the environment) and 35 Ill. Adm. Code 702.161 (duration of permits).

BOARD NOTE: Derived from 40 CFR 270.10(k) ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.189 Additional Information Required to Assure Compliance with MACT Standards

If the Agency determines, based on one or more of the factors listed in subsection (a) of this Section that compliance with the standards of subpart EEE of 40 CFR 63 alone may not adequately protect human health and the environment, the Agency must require the additional information or assessments necessary to determine whether additional controls are necessary to ensure adequate protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health or the environment resulting from both direct and indirect exposure pathways. The Agency may also require a permittee or applicant to provide information necessary to determine whether such an assessment should be required.

a) The Agency shall base the evaluation of whether compliance with the standards of subpart EEE of 40 CFR 63 alone adequately protects human health and the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:

1) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

2) The identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;

3) The identities and quantities of non-dioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);

4) The identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

5) The presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

6) The volume and types of wastes, for example wastes containing highly

toxic constituents;

7) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

8) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

9) Such other factors as may be appropriate.

b) This subsection (b) corresponds with 40 CFR 270.10(l)(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

BOARD NOTE: Derived from 40 CFR 270.10(l), as added at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 703.191 Public Participation: Pre-Application Public Notice and Meeting

a) Applicability. ~~The requirements of this~~ This Section ~~must apply~~ applies to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. ~~The requirements of this~~ This Section ~~must~~ also ~~apply~~ applies to any RCRA Part B application seeking renewal of a permit for such a unit, where the renewal application is proposing a significant change in facility operations. For the purposes of this Section, a "significant change" is any change that would qualify as a class 3 permit modification ~~under~~ pursuant to Section 703.283 and Appendix A to this Part. This Section also applies to a hazardous waste management facility for which facility the owner or operator is seeking coverage under a RCRA standardized permit (see Subpart J of this Part), including renewal of a RCRA standardized permit for such a unit, where the renewal is proposing a significant change in facility operations, as defined at 35 Ill. Adm. Code 705.304(a)(3). ~~The requirements of this~~ This Section ~~do~~ does not apply to any permit ~~modifications under~~ modification pursuant to Sections 703.280 through 703.283 or to ~~applications~~ any application that ~~are~~ is submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

b) Prior to the submission of a RCRA Part B permit application ~~for a facility~~ or the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see Subpart J of this Part), the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of its proposed hazardous waste management activities. The applicant must post a sign-in sheet or otherwise provide a voluntary opportunity

for attendees to provide their names and addresses.

c) The applicant must submit to the Agency, as part of its RCRA Part B permit application or the submission of a written Notice of Intent to be covered by a RCRA standardized permit (see Subpart J of this Part), a summary of the meeting, along with the list of attendees and their addresses developed ~~under~~ pursuant to subsection (b) of this Section and copies of any written comments or materials submitted at the meeting, in accordance with Section 703.183.

d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain documentation of the notice and provide that documentation to the permitting agency upon request.

1) The applicant must provide public notice in each of the following forms:

A) A newspaper advertisement. The applicant must publish a notice in a newspaper of general circulation in the county that hosts the proposed location of the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. In addition, the Agency must instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties, where the Agency determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

B) A visible and accessible sign. The applicant must post a notice on a clearly marked sign at or near the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

C) A broadcast media announcement. The applicant must broadcast a notice at least once on at least one local radio station or television station. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. The applicant may employ another medium with prior approval of the Agency.

D) A notice to the Agency. The applicant must send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with 35 Ill. Adm. Code 705.163(a).

2) The notices required ~~under~~ pursuant to subsection (d)(1) of this Section must include the following:

A) The date, time, and location of the meeting;

B) A brief description of the purpose of the meeting;

C) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

D) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

E) The name, address, and telephone number of a contact person for the applicant.

BOARD NOTE: Derived from 40 CFR 124.31 ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.192 Public Participation: Public Notice of Application

a) Applicability. ~~The requirements of this~~ This Section ~~must apply~~ applies to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. ~~The requirements of this~~ This Section ~~must~~ also ~~apply~~ applies to any RCRA Part B application seeking renewal of a permit for such a unit ~~under~~ pursuant to 35 Ill. Adm. Code 702.125. ~~The requirements of this~~ This Section ~~do~~ does not apply to hazardous waste units for which facility owners or operators are seeking coverage under a RCRA standardized permit (see Subpart J of this Part). This Section also does not apply to permit modifications ~~under~~ pursuant to Sections 703.280 through 703.283 or a permit application submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

b) Notification at application submittal.

1) The Agency must provide public notice, as set forth in 35 Ill. Adm. Code 705.161, and notice to appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), that a Part B permit application has been submitted to the Agency and is available for review.

2) The notice must be published within 30 calendar days after the application is received by the Agency. The notice must include the following information:

A) The name and telephone number of the applicant's contact person;

B) The name and telephone number of the appropriate Agency regional office, as directed by the Agency, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

C) An address to which people can write in order to be put on the facility mailing list;

D) The location where copies of the permit application and any supporting documents can be viewed and copied;

E) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

F) The date that the application was submitted.

c) Concurrent with the notice required ~~under~~ pursuant to subsection (b) of this Section, the Agency must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Agency regional office appropriate for the facility.

BOARD NOTE: Derived from 40 CFR 124.32 ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.205 Incinerators that Burn Hazardous Waste

For a facility that incinerates hazardous waste, except as 35 Ill. Adm. Code 724.440 and subsection (e) of this Section provide otherwise, the applicant must fulfill the requirements of subsection (a), (b), or (c) of this Section in completing the Part B application.

a) When seeking exemption ~~under~~ pursuant to 35 Ill. Adm. Code 724.440(b) or (c) (ignitable, corrosive, or reactive wastes only), the applicant must fulfill the following requirements:

1) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;

2) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5) and will not be burned when other hazardous wastes are present

in the combustion zone;

3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability or corrosivity, or both, as determined by the tests for characteristics of hazardous wastes ~~under~~ pursuant to Subpart C of 35 Ill. Adm. Code 721; or

4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 35 Ill. Adm. Code 721.123(a)(1) through (a)(3) or (a)(6) through (a)(8), and that it will not be burned when other hazardous wastes are present in the combustion zone.

b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222 through 703.224.

c) In lieu of a trial burn, the applicant may submit the following information:

1) An analysis of each waste or mixture of wastes to be burned including the following:

A) Heat value of the waste in the form and composition in which it will be burned;

B) Viscosity (if applicable) or description of physical form of the waste;

C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical methods;

D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the appropriate analytical methods; and

E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a

definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

> [T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . .:
>
> 1. Appropriate methods are reliable and accepted as such in the scientific community.
>
> 2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

2) A detailed engineering description of the incinerator, including the following:

   A) Manufacturer's name and model number of incinerator;

   B) Type of incinerator;

   C) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

   D) Description of auxiliary fuel system (type/feed);

   E) Capacity of prime mover;

   F) Description of automatic waste feed cutoff systems;

   G) Stack gas monitoring and pollution control monitoring system;

   H) Nozzle and burner design;

   I) Construction materials; and

   J) Location and description of temperature, pressure and flow indicating devices and control devices;

3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in subsection (c)(1) of this Section. This

analysis should specify the POHCs that the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;

4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

5) A description of the results submitted from any previously conducted trial burns, including the following:

   A) Sampling and analysis techniques used to calculate performance standards in 35 Ill. Adm. Code 724.443;

   B) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement); and

   C) The certification and results required by subsection (b) of this Section;

6) The expected incinerator operation information to demonstrate compliance with 35 Ill. Adm. Code 724.443 and 724.445, including the following:

   A) Expected carbon monoxide (CO) level in the stack exhaust gas;

   B) Waste feed rate;

   C) Combustion zone temperature;

   D) Indication of combustion gas velocity;

   E) Expected stack gas volume, flow rate, and temperature;

   F) Computed residence time for waste in the combustion zone;

   G) Expected hydrochloric acid removal efficiency;

   H) Expected fugitive emissions and their control procedures; and

   I) Proposed waste feed cut-off limits based on the identified significant operating parameters;

7) The Agency may, pursuant to 35 Ill. Adm. Code 705.122, request such additional information as may be necessary for the Agency to determine whether the incinerator meets the requirements of Subpart O of 35 Ill.

Adm. Code 724 and what conditions are required by that Subpart and Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)]; and

8) Waste analysis data, including that submitted in subsection (c)(1) of this Section, sufficient to allow the Agency to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required.

d) The Agency must approve a permit application without a trial burn if it finds the following:

1) The wastes are sufficiently similar; and

2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (~~under~~ pursuant to 35 Ill. Adm. Code 724.445) operating conditions that will ensure that the performance standards in 35 Ill. Adm. Code 724.443 will be met by the incinerator.

e) When ~~an~~ the owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when the owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~under~~ pursuant to 40 CFR 63.1207(j) and ~~63.1210(b)~~ 63.1210(d) documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of~~ this Section ~~do~~ does not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241~~(b)(2)~~(a)(2) and (a)(3).

BOARD NOTE: Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63.

BOARD NOTE: Derived from 40 CFR 270.19 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when the owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~under~~ pursuant to 40 CFR 63.1207(j) and ~~63.1210(b)~~ 63.1210(d) documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of~~ this Section ~~do~~ does not apply~~, except those provisions that~~. This Section applies, however, if the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section ~~703.310(a)(1)(A)~~ 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events~~. Nevertheless, the Agency may apply the provisions of this Section~~; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or if the Agency determines that certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, ~~and~~ 703.189, and 703.241(a)(2) and (a)(3).

a) Trial burns.

1) General. Except as provided below, an owner or operator that is subject to the standards to control organic emissions provided by 35 Ill. Adm. Code 726.204, standards to control particulate matter provided by 35 Ill. Adm. Code 726.205, standards to control metals emissions provided by 35 Ill. Adm. Code 726.206, or standards to control hydrogen chloride (HCl) or chlorine gas emissions provided by 35 Ill. Adm. Code 726.207 must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.232.

A) ~~Under~~ Pursuant to subsections (a)(2) through (a)(5) of this Section and 35 Ill. Adm. Code 726.204 through 726.207, the Agency may waive a trial burn to demonstrate conformance with a particular emission standard; and

B) The owner or operator may submit data in lieu of a trial burn, as prescribed in subsection (a)(6) of this Section.

2) Waiver of trial burn of DRE (destruction removal efficiency).

A) Boilers operated under special operating requirements. When seeking to be permitted ~~under~~ pursuant to 35 Ill. Adm. Code 726.204(a)(4) and 726.210, which automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by 35 Ill. Adm. Code 726.210.

B) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a), which waive the DRE trial burn, the owner or operator must submit the following:

i) Documentation that the device is operated in conformance with ~~the requirements of~~ 35 Ill. Adm. Code 726.209(a)(1).

ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical methods.

BOARD NOTE: The federal regulations do not themselves define the phrase "appropriate analytical methods," but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

> [T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :
>
> 1. Appropriate methods are reliable and accepted as such in the scientific community.
>
> 2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

iii) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in subsection (a)(2)(B)(ii) of this Section using procedures provided by 35 Ill. Adm. Code 726.209(a)(2)(B).

iv) Results of emissions dispersion modeling for emissions identified in subsection (a)(2)(B)(iii) of this Section using modeling procedures prescribed by 35 Ill. Adm. Code 726.206(h). The Agency must review the emission modeling conducted by the applicant to determine conformance with these procedures. The Agency must either approve the modeling or determine that alternate or supplementary modeling is appropriate.

v) Documentation that the maximum annual average ground level concentration of each constituent identified in subsection (a)(2)(B)(ii) of this Section quantified in conformance with subsection (a)(2)(B)(iv) of this Section does not exceed the allowable ambient level established in Appendix D or E to 35 Ill. Adm. Code 726. The acceptable ambient concentration for emitted constituents for which a specific reference air concentration has not been established in Appendix D to 35 Ill. Adm. Code 726 or risk-specific doses has not been established in Appendix E to 35 Ill. Adm. Code 726 is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix D to 35 Ill. Adm. Code 726.

3) Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator must submit the following:

A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

B) Documentation of the concentration of each metal controlled by 35 Ill. Adm. Code 726.206(b) or (c) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

C) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) or (e) will not be exceeded during the averaging period provided by that subsection;

D) Documentation to support the determination of the TESH (terrain-adjusted effective stack height), good engineering practice stack height, terrain type, and land use, as provided by 35 Ill. Adm. Code 726.206(b)(3) through (b)(5);

E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.206(b)(6), if applicable, for facilities with multiple stacks;

F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.206(b)(7) for eligibility to comply with the screening limits; and

G) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

4) Waiver of trial burn for PM (particulate matter). When seeking to be permitted under the low risk waste provisions of 35 Ill. Adm. Code 726.209(b), which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with subsections (a)(2)(B) and (a)(3) of this Section.

5) Waiver of trial burn for HCl and chlorine gas. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chlorine and chloride provided by 35 Ill. Adm. Code 726.207(b)(1) and (e) that control emissions of HCl and chlorine gas without requiring a trial burn, the owner or operator must submit the following:

A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

B) Documentation of the levels of total chlorine and chloride in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of total chlorine and chloride;

C) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by 35 Ill. Adm. Code 726.207(b)(1) or (e) will not be exceeded during the averaging period provided by that subsection;

D) Documentation to support the determination of the TESH, good engineering practice stack height, terrain type and land use as provided by 35 Ill. Adm. Code 726.207(b)(3);

E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.207(b)(4), if applicable, for facilities with multiple stacks;

F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.207(b)(3) for eligibility to comply with the screening limits; and

G) Proposed sampling and analysis plan for total chlorine and chloride for the hazardous waste, other fuels, and industrial furnace feedstocks.

6) Data in lieu of trial burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Section 703.232 and 35 Ill. Adm. Code 726.204 through 726.207 by providing the information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203 or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Agency must approve a permit application without a trial burn if the Agency finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (~~under~~ pursuant to 35 Ill. Adm. Code 726.102) operating conditions that will ensure conformance with 35 Ill. Adm. Code 726.102(c). In addition, the following information must be submitted:

A) For a waiver from any trial burn, the following:

i) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing or operational or trial burns are provided to support the contention that a trial burn is not needed;

ii) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which

comparative burn data are available; and

iii) Such supplemental information as the Agency finds necessary to achieve the purposes of this subsection (a).

B) For a waiver of the DRE trial burn, the basis for selection of POHCs (principal organic hazardous constituents) used in the other trial or operational burns that demonstrate compliance with the DRE performance standard in 35 Ill. Adm. Code 726.204(a). This analysis should specify the constituents in Appendix H to 35 Ill. Adm. Code 721 that the applicant has identified in the hazardous waste for which a permit is sought and any differences from the POHCs in the hazardous waste for which burn data are provided.

b) Alternative HC limit for industrial furnaces with organic matter in raw materials. An owner or operator of industrial furnaces requesting an alternative HC limit ~~under~~ pursuant to 35 Ill. Adm. Code 726.204(f) must submit the following information at a minimum:

1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuels and destruction of hydrocarbon emissions from nonfuel sources;

4) Trial burn plan to do the following:

A) To demonstrate when burning hazardous waste that flue gas HC (and CO) concentrations do not exceed the baseline HC (and CO) level; and

B) To identify, in conformance with Section 703.232(d), the types and concentrations of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 that are emitted when burning hazardous waste;

5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

6) Such other information as the Agency finds necessary to achieve the purposes of this subsection (b).

c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach ~~under~~ pursuant to 35 Ill. Adm. Code 726.206(f), the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of 35 Ill. Adm. Code 726.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator must provide such other information that the Agency finds necessary to achieve the purposes of this subsection (c).

d) Automatic waste feed cutoff system. An owner or operator must submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

e) Direct transfer. An owner or operator that uses direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 35 Ill. Adm. Code 726.211) directly to the boiler or industrial furnace must submit information supporting conformance with the standards for direct transfer provided by 35 Ill. Adm. Code 726.211.

f) Residues. An owner or operator that claims that its residues are excluded from regulation ~~under the provisions of~~ pursuant to 35 Ill. Adm. Code 726.212 must submit information adequate to demonstrate conformance with those provisions.

BOARD NOTE: Derived from 40 CFR 270.22 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.210 Process Vents

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has process vents to which Subpart AA of 35 Ill. Adm. Code 724 applies must provide the following additional information:

a) For facilities that cannot install a closed-vent system and control device to comply with Subpart AA of 35 Ill. Adm. Code 724 on the effective date on which the facility becomes subject to that Subpart or Subpart AA of 35 Ill. Adm. Code 725, an implementation schedule, as specified in 35 Ill. Adm. Code 724.933(a)(2).

b) Documentation of compliance with the process vent standards in 35 Ill. Adm. Code 724.932, including the following:

1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for the affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan);

2) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur; and

3) Information and data used to determine whether or not a process vent is subject to 35 Ill. Adm. Code 724.932.

c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with 35 Ill. Adm. Code 724.932, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).

d) Documentation of compliance with 35 Ill. Adm. Code 724.933, including the following:

1) A list of all information references and sources used in preparing the documentation.

2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(k).

3) A design analysis, specifications, drawings, schematics, piping, and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number ~~EPA~~ EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts approved by the Agency that present basic control device ~~design~~ information. The design analysis must address the vent stream characteristics and control device parameters as

specified in 35 Ill. Adm. Code 724.935(b)(4)(C).

4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater, unless the total organic emission limits of 35 Ill. Adm. Code 724.932(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

BOARD NOTE: Derived from 40 CFR 270.24 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.211 Equipment

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies must provide the following additional information:

a) For each piece of equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the following:

1) Equipment identification number and hazardous waste management unit identification;

2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);

3) Type of equipment (e.g., a pump or pipeline valve);

4) Percent by weight total organics in the hazardous wastestream at the equipment;

5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and

6) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).

b) For facilities that cannot install a closed-vent system and control device to comply

with Subpart BB of 35 Ill. Adm. Code 724 on the effective date that facility becomes subject to this Subpart or Subpart BB of 35 Ill. Adm. Code 724, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2).

c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).

d) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 or 724.959. This documentation must contain the records required ~~under~~ pursuant to 35 Ill. Adm. Code 724.964. The Agency must request further documentation if necessary to demonstrate compliance. Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960 must include the following information:

1) A list of all information references and sources used in preparing the documentation;

2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(j);

3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number ~~EPA~~ EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts approved by the Agency that present basic control device ~~design~~ information. The design analysis must address the vent stream characteristics and control device parameters, as specified in 35 Ill. Adm. Code 724.935(b)(4)(C);

4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur; and

5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Derived from 40 CFR 270.25 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: ~~SHORT TERM AND PHASED~~ SPECIAL FORMS OF PERMITS

Section 703.220 Emergency Permits

a) Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, in the event that the Agency finds an imminent and substantial endangerment to human health or the environment, the Agency may issue a temporary emergency permit, as follows:

1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or

2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

b) This emergency permit must comply with all of the following requirements:

1) May be oral or written. If oral, it must be followed in five days by a written emergency permit.

2) Shall not exceed 90 days in duration.

3) Shall clearly specify the hazardous wastes to be received and the manner and location of their treatment, storage, or disposal.

4) May be terminated by the Agency at any time without process if it determines that termination is appropriate to adequately protect human health and the environment.

5) Shall be accompanied by a public notice published ~~under~~ pursuant to 35 Ill. Adm. Code 705.162 including the following:

A) Name and address of the office granting the emergency authorization;

B) Name and location of the permitted HWM facility;

C) A brief description of the wastes involved;

D) A brief description of the action authorized and reasons for authorizing it; and

E) Duration of the emergency permit.

6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Part and 35 Ill. Adm. Code 724.

7) Emergency permits that would authorize actions not in compliance with Board rules, other than procedural requirements, require a variance or provisional variance pursuant to Title IX of the Environmental Protection Act ~~and 35 Ill. Adm. Code 104~~ [415 ILCS 5/Title IX].

BOARD NOTE: Derived from 40 CFR 270.61 ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.221 Alternative Compliance with the Federal NESHAPS

When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~under~~ pursuant to 40 CFR 63.1207(j) and ~~63.1210(b)~~ 63.1210(d) documenting compliance with all applicable requirements of ~~to~~ subpart EEE of 40 CFR 63), ~~the requirements of~~ Sections 703.221 through 703.225 do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section ~~703.310(a)(1)(A)~~ 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of Sections 703.221 through 703.225, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

BOARD NOTE: Derived from 40 CFR 270.62 preamble (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.231 Research, Development and Demonstration Permits

a) The Agency may issue a research, development, and demonstration permit for any hazardous waste treatment facility that proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated ~~under~~ pursuant to 35 Ill. Adm. Code 724 or 726. Any such permit must include such terms and conditions as will ~~assure protection of~~ adequately protect human health and the environment. Such a permit must provide as follows:

1) It must provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year, unless renewed as provided in subsection (d) of this Section;

2) It must provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

3) It must include such requirements as necessary to adequately protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as necessary regarding testing and providing of information to the Agency with respect to the operation of the facility.

b) For the purpose of expediting review and issuance of permits ~~under~~ pursuant to this Section, the Agency may, consistent with ~~the~~ adequate protection of human health and the environment, modify or waive permit application and permit issuance requirements in this Part and 35 Ill. Adm. Code 702 and 705 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

c) Pursuant to Section 34 of the Act [415 ILCS 5/34], the Agency may order an immediate termination of all operations at the facility at any time it determines that termination is necessary to adequately protect human health and the environment. The permittee may seek Board review of the termination pursuant to Section 34(d) of the Act [415 ILCS 5/39(d)].

d) Any permit issued ~~under~~ pursuant to this Section may be renewed not more than three times. Each such renewal must be for a period of not more than one year.

BOARD NOTE: Derived from 40 CFR 270.65 ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement ~~or~~ kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005 or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations of the federal

National Emission Standards for Hazardous Air Pollutants (NESHAPs) in subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance ~~under~~ pursuant to 40 CFR 63.1207(j) and ~~63.1210(b)~~ 63.1210(d) documenting compliance with all applicable requirements of subpart EEE of 40 CFR 63), ~~the requirements of~~ this Section ~~do~~ does not apply~~, except those provisions that~~. This Section does apply, however, if the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section ~~703.310(a)(1)(A)~~ 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events~~. Nevertheless, the Agency may apply the provisions of this Section,~~; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or if the Agency determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

a) General. The owner or operator of a new boiler or industrial furnace (one not operating under the interim status standards of 35 Ill. Adm. Code 726.203) is subject to subsections (b) through (f) of this Section. A boiler or industrial furnace operating under the interim status standards of 35 Ill. Adm. Code 726.203 is subject to subsection (g) of this Section.

b) Permit operating periods for a new boiler or industrial furnace. A permit for a new boiler or industrial furnace must specify appropriate conditions for the following operating periods:

1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operation readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Agency must establish permit conditions in the pretrial burn period, including but not limited to allowable hazardous waste feed rates and operating conditions. The Agency must extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit must be modified to reflect the extension according to Sections 703.280 through 703.283.

A) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of 35 Ill. Adm. Code 726.204 through 726.207 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 35 Ill. Adm. Code 726.202 (e).

B) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

2) Trial burn period. For the duration of the trial burn, the Agency must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and determining adequate operating conditions ~~under~~ pursuant to 35 Ill. Adm. Code 726.202(e). Applicants must propose a trial burn plan, prepared ~~under~~ pursuant to subsection (c) of this Section, to be submitted with Part B of the permit application.

3) Post-trial burn period.

A) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Agency to reflect the trial burn results, the Agency must establish the operating requirements most likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

B) Applicants must submit a statement, with Part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. This statement should include, at a minimum, restrictions on the operating requirements provided by 35 Ill. Adm. Code 726.202 (e).

C) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements of this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

4) Final permit period. For the final period of operation the Agency must develop operating requirements in conformance with 35 Ill. Adm. Code 726.202(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. Based on the trial burn results, the Agency must make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit

modification must proceed according to Sections 703.280 through 703.283.

c) Requirements for trial burn plans. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection (c).

1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes the following:

A) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine and chloride, and ash; and

B) Viscosity or description of the physical form of the feed stream.

2) An analysis of each hazardous waste, as fired, including the following:

A) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with appropriate analytical methods;

B) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the appropriate analytical methods; and

C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

BOARD NOTE: The federal regulations do not themselves define the phrase "appropriate analytical methods," but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method,

which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

3) A detailed engineering description of the boiler or industrial furnace, including the following:

A) Manufacturer's name and model number of the boiler or industrial furnace;

B) Type of boiler or industrial furnace;

C) Maximum design capacity in appropriate units;

D) Description of the feed system for the hazardous waste and, as appropriate, other fuels and industrial furnace feedstocks;

E) Capacity of hazardous waste feed system;

F) Description of automatic hazardous waste feed cutoff systems;

G) Description of any pollution control system; and

H) Description of stack gas monitoring and any pollution control monitoring systems.

4) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and sample analysis.

5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including dates, duration, quantity of hazardous waste to be burned, and other factors relevant to the Agency's decision ~~under~~ pursuant to subsection (b)(2) of this Section.

6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to

meet the performance standards in 35 Ill. Adm. Code 726.204 through 726.207.

7) A description of and planned operating conditions for any emission control equipment that will be used.

8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

9) Such other information as the Agency finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (c) and the criteria in subsection (b)(2) of this Section.

d) Trial burn procedures.

1) A trial burn must be conducted to demonstrate conformance with the standards of 35 Ill. Adm. Code 726.104 through 726.107.

2) The Agency must approve a trial burn plan if the Agency finds as follows:

A) That the trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 35 Ill. Adm. Code 726.104 through 726.107;

B) That the trial burn itself will not present an imminent hazard to human health and the environment;

C) That the trial burn will help the Agency to determine operating requirements to be specified ~~under~~ pursuant to 35 Ill. Adm. Code 726.102(e); and

D) That the information sought in the trial burn cannot reasonably be developed through other means.

3) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.

A) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Agency.

B) This notice must contain the following:

i) The name and telephone number of applicant's contact person;

ii) The name and telephone number of the Agency regional office appropriate for the facility;

iii) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

iv) An expected time period for commencement and completion of the trial burn.

4) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and submit the results of all the determinations required in subsection (c) of this Section. The Agency must, in the trial burn plan, require that the submission be made within 90 days after completion of the trial burn, or later if the Agency determines that a later date is acceptable.

5) All data collected during any trial burn must be submitted to the Agency following completion of the trial burn.

6) All submissions required by this subsection (d) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report ~~under~~ pursuant to 35 Ill. Adm. Code 702.126.

e) Special procedures for DRE trial burns. When a DRE trial burn is required ~~under~~ pursuant to 35 Ill. Adm. Code 726.104, the Agency must specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Agency based on information including the Agency's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in Subpart D of 35 Ill. Adm. Code 721, the hazardous waste organic constituents identified in Appendix G to 35 Ill. Adm. Code 721 as the basis for listing.

f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

1) A quantitative analysis of the levels of antimony, arsenic, barium,

beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

2) When a DRE trial burn is required ~~under~~ pursuant to 35 Ill. Adm. Code 726.204(a), the following determinations:

A) A quantitative analysis of the trial POHCs in the hazardous waste feed;

B) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

C) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 726.204(a);

3) When a trial burn for chlorinated dioxins and furans is required ~~under~~ pursuant to 35 Ill. Adm. Code 726.204(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra- through octa-congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;

4) When a trial burn for PM, metals, or HCl and chlorine gas is required ~~under~~ pursuant to 35 Ill. Adm. Code 726.205, 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of PM, metals, or HCl and chlorine gas, and computations showing conformance with the applicable emission performance standards;

5) When a trial burn for DRE, metals, and HCl and chlorine gas is required ~~under~~ pursuant to 35 Ill. Adm. Code 726.204(a), 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine and chloride;

6) An identification of sources of fugitive emissions and their means of control;

7) A continuous measurement of carbon monoxide (CO), oxygen, and, where required, hydrocarbons (HC) in the stack gas; and

8) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards 35 Ill. Adm. Code 726.204 through 726.207 and to establish the operating

conditions required by 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions ~~under~~ pursuant to 35 Ill. Adm. Code 726.203, and to establish the operating conditions required by 35 Ill. Adm. Code 726.202(e) as necessary to meet those performance standards.

g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions ~~under~~ pursuant to 35 Ill. Adm. Code 726.203, an applicant that owns or operates an existing boiler or industrial furnace ~~which~~ that is operated under the interim status standards of 35 Ill. Adm. Code 726.203 must either prepare and submit a trial burn plan and perform a trial burn in accordance with ~~the requirements of~~ this Section or submit other information as specified in Section 703.208(a)(6). The Agency must announce its intention to approve of the trial burn plan in accordance with the timing and distribution requirements of subsection (d)(3) of this Section. The contents of the notice must include all of the following information: the name and telephone number of a contact person at the facility; the name and telephone number of the Agency regional office appropriate for the facility; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Agency approval of the plan, and the time periods during which the trial burn would be conducted. Applicants that submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in subsection (f) of this Section with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Agency to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Agency.

BOARD NOTE: Derived from 40 CFR 270.66 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.238 RCRA Standardized Permits for Storage and Treatment Units

A RCRA standardized permit is a special form of permit for the owner or operator of a TSD that engages in either of the following activities:

a) It generates hazardous waste and then non-thermally treats or stores the hazardous waste on-site in tanks, containers, or containment buildings; or

b) It receives hazardous waste generated off-site by a generator under the same

ownership as the receiving facility, and then it stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings. The owner or operator of a facility operating under a RCRA standardized permit is regulated pursuant to Subpart J of this Part, Subpart G of 35 Ill. Adm. Code 705, and 35 Ill. Adm. Code 727.

BOARD NOTE: Derived from 40 CFR 270.67, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.241 Establishing Permit Conditions

a) General conditions:

1) In addition to the conditions established ~~under~~ pursuant to 35 Ill. Adm. Code 702.160(a), each RCRA permit must include permit conditions necessary to achieve compliance with each of the applicable requirements specified in 35 Ill. Adm. Code 724 and 726 through 728. In satisfying this provision, the Agency may incorporate applicable requirements of 35 Ill. Adm. Code 724 and 726 through 728 directly into the permit or establish other permit conditions that are based on these Parts;

2) Each RCRA permit issued ~~under~~ pursuant to Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)] must contain terms and conditions that the Agency determines are necessary to adequately protect human health and the environment~~.~~; and

3) If, as the result of an assessments or other information, the Agency determines that conditions, in addition to those required under subpart EEE of 40 CFR 63 or 35 Ill. Adm. Code 724 or 725, are necessary to ensure adequate protection of human health and the environment, the Agency must include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

BOARD NOTE: Subsection (a) derived from 270.32(b) ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2006).

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

BOARD NOTE: Subsection (b) derived from 40 CFR 270.30 preamble ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.246 Reporting Requirements

The following reports required by 35 Ill. Adm. Code 724 must be submitted in addition to those required by 35 Ill. Adm. Code 702.152 (reporting requirements):

a) Manifest discrepancy report: if a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee must submit a letter report including a copy of the manifest to the Agency (see 35 Ill. Adm. Code 724.172).

b) Unmanifested waste report: if hazardous waste is received without an accompanying manifest, the permittee must submit an unmanifested waste report to the Agency within 15 days of receipt of unmanifested waste. (see 35 Ill. Adm. Code 724.176)

c) ~~Annual~~ Facility activities report: ~~an annual~~ a facility activities report must be submitted covering facility activities ~~during the previous calendar year (see~~ as described in 35 Ill. Adm. Code 724.175~~)~~.

BOARD NOTE: Derived from 40 CFR 270.30(l)(7) through (l)(9) ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: CHANGES TO PERMITS

Section 703.260 Transfer

a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (~~under~~ pursuant to subsection (b) of this Section or Section 703.272) to identify the new permittee and incorporate such other requirements as are necessary under the appropriate Act. The new owner or operator to whom the permit is transferred must comply with all the terms and conditions specified in such permit.

b) Changes in the ownership or operational control of a facility must be made as a Class 1 modification with the prior written approval of the Agency in accordance with Section 703.281 or as a routine change with prior Agency approval pursuant to 35 Ill. Adm. Code 705.304(c). The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Agency. When a transfer of ownership or operational control occurs, the old owner or operator must comply with ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code

724 (Financial Requirements), until the new owner or operator has demonstrated compliance with that Subpart. The new owner or operator must demonstrate compliance with that Subpart within six months after the date of change of operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with that Subpart, the Agency must notify the old owner or operator that the old owner or operator no longer needs to comply with that Subpart as of the date of demonstration.

BOARD NOTE: Derived from 40 CFR 270.40 ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

BOARD NOTE: The new operator may be required to employ a chief operator that is certified pursuant to 35 Ill. Adm. Code 745.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.270 Modification or Reissuance

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee, as required in the permit (see 35 Ill. Adm. Code 702.140 through 702.152 and Section 703.241 et seq.), receives a request for reissuance ~~under~~ pursuant to 35 Ill. Adm. Code 705.128, or conducts a review of the permit file) it may determine whether or not one or more of the causes, listed in Sections 703.271 or 703.272, for modification, reissuance, or both, exist. If cause exists, the Agency must modify or reissue the permit accordingly, subject to the limitations of Section 703.273, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (~~see~~ See 35 Ill. Adm. Code 705.128(c)(2)) If cause does not exist ~~under~~ pursuant to Section 703.271 or 703.272, the Agency must not modify or reissue the permit, except on the request of the permittee. If a permit modification is requested by the permittee, the Agency must approve or deny the request according to the procedures of Section 703.280 ~~et seq~~ through 703.283 or Section 703.353 and Subpart G of 35 Ill. Adm. Code 705. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 must be followed.

BOARD NOTE: Derived from the preamble to 40 CFR 270.41 ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board has chosen to use "reissue" where the corresponding federal provisions use "revoke and reissue." This was because permit revocation is a remedy in the context of an enforcement action that is reserved to the Board. See 415 ILCS 5/33(b) (2004); 35 Ill. Adm. Code 702.186 (2004). The Board intends that a reissued permit completely supercede the earlier version of that permit.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.271 Causes for Modification

The following are cause for modification, but not reissuance, of permits; the following are cause for reissuance as well as modification when the permittee requests or agrees:

a) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b) Information. The Agency has received information. Permits will be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

c) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

d) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

e) The Agency must also modify a permit as follows:

1) When modification of a closure plan is required under 35 Ill. Adm. Code 724.212(b) or 724.218(b).

2) After the Agency receives the notification of expected closure under 35 Ill. Adm. Code 724.213, when the Agency determines that extension of the 90 or 180 day periods under 35 Ill. Adm. Code 724.213, modification of the 30-year post-closure period under 35 Ill. Adm. Code 724.217(a), continuation of security requirements under 35 Ill. Adm. Code 724.217(b), or permission to disturb the integrity of the containment system under 35 Ill. Adm. Code 724.217(c) are unwarranted.

3) When the permittee has filed a request under 35 Ill. Adm. Code 724.247(c) for a modification to the level of financial responsibility or when the Agency demonstrates under 35 Ill. Adm. Code 724.247(d) that an upward adjustment of the level of financial responsibility is required.

4) When the corrective action program specified in the permit under 35 Ill. Adm. Code 724.200 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of

time.

5) To include a detection monitoring program meeting the requirements of 35 Ill. Adm. Code 724.198, when the owner or operator has been conducting a compliance monitoring program under 35 Ill. Adm. Code 724.199 or a corrective action program under 35 Ill. Adm. Code 724.200, and the compliance period ends before the end of the post-closure care period for the unit.

6) When a permit requires a compliance monitoring program under 35 Ill. Adm. Code 724.199, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

8) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

f) Notwithstanding any other provision of this Section, when a permit for a land disposal facility is reviewed under 35 Ill. Adm. Code 702.161(d), the Agency must modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this Part and 35 Ill. Adm. Code 702, 703, and 720 through ~~726~~ 727.

BOARD NOTE: Derived from 40 CFR 270.41(a) ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.272 Causes for Modification or Reissuance

The following are causes to modify or, alternatively, reissue a permit:

a) This subsection (a) corresponds with 40 CFR 270.41(b)(1), which pertains to termination of a permit, which is not possible through an administrative action of the Agency. This statement maintains structural consistency with the corresponding federal rules.

b) The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit~~.~~; or

c) The Agency has received notification under 35 Ill. Adm. Code 705.301(a)(2) of a facility owner's or operator's intent to be covered by a RCRA standardized permit.

BOARD NOTE: Derived from 40 CFR 270.41(b)~~, as amended at 53 Fed. Reg. 37934, September 28, 1988~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.280 Permit Modification at the Request of the Permittee

a) Class 1 modifications. See Section 703.281.

b) Class 2 modifications. See Section 703.282.

c) Class 3 modifications. See Section 703.283.

d) Other modifications.

1) In the case of modifications not explicitly listed in Appendix A of this Part, the permittee may submit a Class 3 modification request to the Agency, or the permittee may request a determination by the Agency that the modification be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, the permittee must provide the Agency with the necessary information to support the requested classification.

2) The Agency must make the determination described in subsection (d)(1) of this Section as promptly as practicable. In determining the appropriate class for a specific modification, the Agency must consider the similarity of the modification to other modifications codified in Appendix A of this Part and the following criteria:

A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to adequately protect human health or the environment. In the case of Class 1 modifications, the Agency may require prior approval.

B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to any of the following:

i) Common variations in the types and quantities of the wastes managed under the facility permit;

ii) Technological advances; and

iii) Changes necessary to comply with new regulations, where these changes can be implemented without substantially

changing design specifications or management practices in the permit.

C) Class 3 modifications substantially alter the facility or its operation.

e) Temporary authorizations.

1) Upon request of the permittee, the Agency must, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection (e). Temporary authorizations have a term of not more than 180 days.

2) Procedures.

A) The permittee may request a temporary authorization for the following:

i) Any Class 2 modification meeting the criteria in subsection (e)(3)(B) of this Section; and

ii) Any Class 3 modification that meets the criteria in subsection (e)(3)(B)(i) of this Section or that meets the criteria in subsections (e)(3)(B)(iii) through (e)(3)(B)(v) of this Section and provides improved management or treatment of a hazardous waste already listed in the facility permit.

B) The temporary authorization request must include the following:

i) A description of the activities to be conducted under the temporary authorization;

ii) An explanation of why the temporary authorization is necessary; and

iii) Sufficient information to ensure compliance with 35 Ill. Adm. Code 724 standards.

C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Agency and to appropriate units of State and local governments, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.

3) The Agency must approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency must find as follows:

A) That the authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.

B) That the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

i) To facilitate timely implementation of closure or corrective action activities;

ii) To allow treatment or storage in tanks, containers, or containment buildings, in accordance with 35 Ill. Adm. Code 728;

iii) To prevent disruption of ongoing waste management activities;

iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

v) To facilitate other changes to adequately protect human health and the environment.

4) A temporary authorization must be reissued for one additional term of up to 180 days, provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and either of the following is true:

A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D); or

B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.

f) Public notice and appeals of permit modification decisions.

1) The Agency must notify persons on the facility mailing list and appropriate units of State and local government within 10 days after any

decision to grant or deny a Class 2 or 3 permit modification request. The Agency must also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect ~~under~~ pursuant to Section 703.282(f)(3) or (f)(5).

2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.

3) An automatic authorization that goes into effect ~~under~~ pursuant to Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal notwithstanding the provisions of 35 Ill. Adm. Code 705.204.

g) Newly regulated wastes and units.

1) The permittee is authorized to continue to manage wastes listed or identified as hazardous ~~under~~ pursuant to 35 Ill. Adm. Code 721, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if each of the following is true:

A) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

B) The permittee submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;

C) The permittee is in compliance with the applicable standards of 35 Ill. Adm. Code 725 and 726;

D) The permittee also submits a complete class 2 or 3 modification request within 180 days after the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards ~~under~~ pursuant to 35 Ill. Adm. Code 724, 725, or 726; and

E) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of 35 Ill. Adm. Code 725 for groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as

hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator loses authority to operate ~~under~~ pursuant to this Section.

2) New wastes or units added to a facility's permit ~~under~~ pursuant to this subsection (g) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

h) Military hazardous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if each of the following is true:

1) The facility was in existence as a hazardous waste facility and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

3) The permittee submits a complete Class 2 modification request within 180 days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.

i) Permit modification list. The Agency must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

j) Combustion facility changes to meet federal 40 CFR 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested ~~under~~ pursuant to Appendix A, paragraph L(9) of this Part.

1) A facility owner or operator must have complied with the federal notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to October 11, 2000, (see subpart EEE of 40 CFR 63 (2000), incorporated by reference in 35 Ill. Adm. Code 720.111(b)) in order to request a permit modification ~~under~~ pursuant to this Section for the purpose of technology changes needed to meet the standards of 40 CFR 63.1203, 63.1204, and 63.1205, incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2) If the Agency does not act to either approve or deny the request within 90 days of receiving it, the request must be deemed approved. The Agency may, at its discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator in writing before the 90 days has expired. A facility owner or operator must comply with the NIC requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this Section for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards as added on October 12, 2005, incorporated by reference in 35 Ill. Adm. Code 720.111(b).

k) Waiver of RCRA permit conditions in support of transition to the federal 40 CFR 63 MACT standards.

1) The facility owner or operator may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under Appendix A of this Part, paragraph L.10. The owner or operator must provide the information described in subsections (k)(1)(A) though (k)(1)(C) of this Section, with Agency review subject to the conditions of subsection (k)(1)(D) of this Section:

A) It must identify the specific RCRA permit operating and emissions limits that the owner or operator is requesting to waive;

B) It must provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and

C) It must discuss how the revised provisions will be sufficiently protective.

D) The Agency must approve or deny the request within 30 days after receipt of the request. The Agency may, at its discretion, extend this 30-day deadline one time for up to 30 days by notifying the facility owner or operator in writing.

2) To request this modification in conjunction with MACT performance testing, where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (h)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Agency) the owner or operator must fulfill the conditions of subsection (k)(2)(A) of this Section, subject to the conditions of subsection (k)(2)(B) of this Section:

A) It must submit its modification request to the Agency at the same time it submits its test plans to the Agency.

B) The Agency may elect to approve or deny the request contingent upon approval of the test plans.

BOARD NOTE: Derived from 40 CFR 270.42(d) through ~~(j) (2002)~~ (k) (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: REMEDIAL ACTION PLANS

Section 703.301 General Information

a) Definition of a RAP.

1) A RAP is a special form of RCRA permit that an owner or operator may obtain, instead of a permit issued under 35 Ill. Adm. Code 702 and this Part, to authorize the owner or operator to treat, store, or dispose of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under Section 703.306.

2) The requirements in 35 Ill. Adm. Code 702 and this Part do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under this Subpart H. The definitions in 35 Ill. Adm. Code 702.110 apply to RAPs.

3) Notwithstanding any other provision of 35 Ill. Adm. Code 702 or this Part, any document that meets the requirements in this Section constitutes a RCRA permit, as defined in 35 Ill. Adm. Code 702.110.

4) A RAP may be either of the following:

A) A stand-alone document that includes only the information and conditions required by this Subpart H; or

B) A part (or parts) of another document that includes information or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this Subpart H.

5) If an owner or operator is treating, storing, or disposing of hazardous

remediation wastes as part of a cleanup compelled by authorities issued by USEPA or the State of Illinois, a RAP does not affect the obligations under those authorities in any way.

6) If an owner or operator receives a RAP at a facility operating under interim status, the RAP does not terminate the facility's interim status.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.80 (2002).

b) When an owner or operator needs a RAP.

1) Whenever an owner or operator treats, stores, or disposes of hazardous remediation wastes in a manner that requires a RCRA permit under Section 703.121, an owner or operator must obtain either of the following:

A) A RCRA permit according to 35 Ill. Adm. Code 702 and this Part; or

B) A RAP according to this Subpart H.

2) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subpart H.

3) An owner or operator may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. An owner or operator must have the RAP approved as a modification to the owner's or operator's existing permit according to the requirements of Sections 703.270 through 703.273 or Sections 703.280 through 703.283 instead of the requirements in this Subpart H. However, when an owner or operator submits an application for such a modification, the information requirements in Sections 703.281(a)(1), 703.282(a)(4), and 703.283(a)(4) do not apply. Instead, an owner or operator must submit the information required under Section 703.302(d). When the owner's or operator's RCRA permit is modified, the RAP becomes part of the RCRA permit. Therefore, when the owner's or operator's RCRA permit (including the RAP portion) is modified~~, revoked and~~ or reissued, or terminated, or when it expires, the permit will be modified, according to the applicable requirements in Sections 703.270 through 703.273 or 703.280 through 703.283, it will be ~~revoked and~~ reissued, according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or it will be terminated, according to the applicable requirements in 35 Ill. Adm. Code 702.186, or the permit will expire, according to the applicable requirements in 35 Ill. Adm. Code 702.125 and 702.161.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.85 (2002).

c) The provisions of 35 Ill. Adm. Code 702.181 apply to RAPs.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.90 (2002). The corresponding federal provision includes an explanation that 40 CFR 270.4 provides that compliance with a permit constitutes compliance with RCRA. This is contrary to Illinois law, under which compliance with a permit does not constitute an absolute defense to a charge of violation of a substantive standard other than a failure to operate in accordance with the terms of a permit. See 35 Ill. Adm. Code 702.181(a) and accompanying Board Note.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.302 Applying for a RAP

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

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.95 ~~(2002)~~ (2005).

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

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.100 ~~(2002)~~ (2005).

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

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.105 ~~(2002)~~ (2005).

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

1) The name, address, and USEPA identification number of the remediation waste management site;

2) The name, address, and telephone number of the owner and operator;

3) The latitude and longitude of the site;

4) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;

5) A scaled drawing of the remediation waste management site showing the following:

   A) The remediation waste management site boundaries;

   B) Any significant physical structures; and

   C) The boundary of all areas on-site where remediation waste is to be treated, stored, or disposed of;

6) A specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on the following:

   A) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated or otherwise managed;

   B) An estimate of the quantity of these wastes; and

   C) A description of the processes an owner or operator will use to treat, store, or dispose of this waste, including technologies, handling systems, design, and operating parameters an owner or operator will use to treat hazardous remediation wastes before disposing of them according to the land disposal restrictions of 35 Ill. Adm. Code 728, as applicable;

7) Enough information to demonstrate that operations that follow the provisions in the owner's or operator's RAP application will ensure compliance with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728;

8) Such information as may be necessary to enable the Agency to carry out its duties under other federal laws as is required for traditional RCRA permits ~~under~~ pursuant to Section 703.183(t);

9) Any other information the Agency decides is necessary for demonstrating compliance with this Subpart H or for determining any additional RAP conditions that are necessary to adequately protect human health and the environment.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.110 ~~(2002)~~ (2005).

e) If an owner or operator wants to keep this information confidential. 35 Ill. Adm. Code 120 allows an owner or operator to claim as confidential any or all of the information an owner or operator submits to the Agency ~~under~~ pursuant to this Subpart H. An owner or operator must assert any such claim at the time that the owner or operator submits its RAP application or other submissions by stamping the words "trade secret" in red ink, as provided in 35 Ill. Adm. Code 120.305. If an owner or operator asserts a claim in compliance with 35 Ill. Adm. Code 120.201 at the time it submits the information, the Agency must treat the information according to the procedures in 35 Ill. Adm. Code 120. If an owner or operator does not assert a claim at the time it submits the information, the Agency must make the information available to the public without further notice to the owner or operator. The Agency must deny any requests for confidentiality of an owner's or operator's name or address.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.115 ~~(2002)~~ (2005).

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

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.120 ~~(2002)~~ (2005).

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

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.125 ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.303 Getting a RAP Approved

a) The process for approving or denying an application for a RAP.

1) If the Agency tentatively finds that an owner's or operator's RAP application includes all of the information required by Section 703.302(d) and that the proposed remediation waste management activities meet the regulatory standards, the Agency must make a tentative decision to approve the RAP application. The Agency must then prepare a draft RAP and provide an opportunity for public comment before making a final decision on the RAP application, according to this Subpart H.

2) If the Agency tentatively finds that the owner's or operator's RAP application does not include all of the information required by Section 703.302(d) or that the proposed remediation waste management activities

do not meet the regulatory standards, the Agency may request additional information from an owner or operator or ask an owner or operator to correct deficiencies in the owner's or operator's application. If an owner or operator fails or refuses to provide any additional information the Agency requests, or to correct any deficiencies in its RAP application, the Agency may either make a tentative decision to deny that owner's or operator's RAP application or to approve that application with certain changes, as allowed ~~under~~ pursuant to Section 39 of the Act [415 ILCS 5/39]. After making this tentative decision, the Agency must prepare a notice of intent to deny the RAP application ("notice of intent to deny") or to approve that application with certain changes and provide an opportunity for public comment before making a final decision on the RAP application, according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.130 ~~(2002)~~ (2005).

b) What the Agency must include in a draft RAP. If the Agency prepares a draft RAP, the draft must include the following information:

1) The information required ~~under~~ pursuant to Section 703.302(d)(1) through (d)(6);

2) The following terms and conditions:

A) Terms and conditions necessary to ensure that the operating requirements specified in the RAP comply with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 (including any recordkeeping and reporting requirements). In satisfying this provision, the Agency may incorporate, expressly or by reference, applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 into the RAP or establish site-specific conditions, as required or allowed by 35 Ill. Adm. Code 724, 726, and 728;

B) The terms and conditions in Subpart F of this Part;

C) The terms and conditions for modifying, ~~revoking and~~ reissuing, and terminating the RAP, as provided in Section 703.304(a); and

D) Any additional terms or conditions that the Agency determines are necessary to adequately protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

3) If the draft RAP is part of another document, as described in Section 703.301(a)(4)(B), the Agency must clearly identify the components of that document that constitute the draft RAP.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.135 ~~(2002)~~ (2005).

c) What else the Agency must prepare in addition to the draft RAP or notice of intent to deny. Once the Agency has prepared the draft RAP or notice of intent to deny, it must then do the following:

1) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

2) Compile an administrative record, including the following information:

A) The RAP application, and any supporting data furnished by the applicant;

B) The draft RAP or notice of intent to deny;

C) The statement of basis and all documents cited therein (material readily available at the applicable Agency office or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

D) Any other documents that support the decision to approve or deny the RAP; and

3) Make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.140 ~~(2002)~~ (2005).

d) The procedures for public comment on the draft RAP or notice of intent to deny.

1) The Agency must publish notice of its intent as follows:

A) Send notice to an owner or operator of its intention to approve or deny the owner's or operator's RAP application, and send an owner or operator a copy of the statement of basis;

B) Publish a notice of its intention to approve or deny the owner's or operator's RAP application in a major local newspaper of general circulation;

C) Broadcast its intention to approve or deny the owner's or operator's RAP application over a local radio station; and

D) Send a notice of its intention to approve or deny the owner's or operator's RAP application to each unit of local government having jurisdiction over the area in which the owner's or operator's site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

2) The notice required by subsection (d)(1) of this Section must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

3) The notice required by subsection (d)(1) of this Section must include the following information:

A) The name and address of the Agency office processing the RAP application;

B) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

C) A brief description of the activity the RAP will regulate;

D) The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

E) A brief description of the comment procedures in this Section, and any other procedures by which the public may participate in the RAP decision;

F) If a hearing is scheduled, the date, time, location, and purpose of the hearing;

G) If a hearing is not scheduled, a statement of procedures to request a hearing;

H) The location of the administrative record, and times when it will be open for public inspection; and

I) Any additional information that the Agency considers necessary or proper.

4) If, within the comment period, the Agency receives written notice of opposition to its intention to approve or deny the owner's or operator's RAP

application and a request for a hearing, the Agency must hold an informal public hearing to discuss issues relating to the approval or denial of the owner's or operator's RAP application. The Agency may also determine on its own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Agency must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in subsection (d)(1) of this Section. This notice must, at a minimum, include the information required by subsection (d)(3) of this Section and the following additional information:

A) A reference to the date of any previous public notices relating to the RAP application;

B) The date, time, and place of the hearing; and

C) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.145 ~~(2002)~~ (2005).

e) How the Agency must make a final decision on a RAP application.

1) The Agency must consider and respond to any significant comments raised during the public comment period or during any hearing on the draft RAP or notice of intent to deny, and the Agency may revise the draft RAP based on those comments, as appropriate.

2) If the Agency determines that the owner's or operator's RAP includes the information and terms and conditions required in subsection (b) of this Section, then it will issue a final decision approving the owner's or operator's RAP and, in writing, notify the owner or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been approved.

3) If the Agency determines that the owner's or operator's RAP does not include the information required in subsection (b) of this Section, then it will issue a final decision denying the RAP and, in writing, notify the owner or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been denied.

4) If the Agency's final decision is that the tentative decision to deny the RAP application was incorrect, it must withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this Subpart H.

5) When the Agency issues its final RAP decision, it must refer to the procedures for appealing the decision ~~under~~ pursuant to subsection (f) of this Section.

6) Before issuing the final RAP decision, the Agency must compile an administrative record. Material readily available at the applicable Agency office or published materials that are generally available and which are included in the administrative record need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see subsection (c)(2) of this Section) and the following items:

A) All comments received during the public comment period;

B) Tapes or transcripts of any hearings;

C) Any written materials submitted at these hearings;

D) The responses to comments;

E) Any new material placed in the record since the draft RAP was issued;

F) Any other documents supporting the RAP; and

G) A copy of the final RAP.

7) The Agency must make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.150 ~~(2002)~~ (2005).

f) Administrative appeal of a decision to approve or deny a RAP application.

1) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing on the draft RAP, may appeal the Agency's decision to approve or deny the owner's or operator's RAP application to the Board ~~under~~ pursuant to 35 Ill. Adm. Code 705.212. Any person that did not file comments, or did not participate in any public hearings on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions ~~under~~ pursuant to 35 Ill. Adm. Code 705.201 (or a decision ~~under~~ pursuant to Section 703.240 to deny a permit for the active life of a RCRA hazardous waste management

facility or unit). Instead of the notice required ~~under~~ pursuant to Subpart D of 35 Ill. Adm. Code 705 and 705.212(c), the Agency must give public notice of any grant of review of a RAP through the same means used to provide notice ~~under~~ pursuant to subsection (d) of this Section. The notice will include the following information:

A) The public hearing and any briefing schedule for the appeal, as provided by the Board;

B) A statement that any interested person may participate in the public hearing or file public comments or an amicus brief with the Board; and

C) The information specified in subsection (d)(3) of this Section, as appropriate.

2) This appeal is a prerequisite to seeking judicial review of these Agency actions.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.155 ~~(2002)~~ (2005).

g) When a RAP becomes effective. A RAP becomes effective 35 days after the Agency notifies the owner or operator and all commenters that the RAP is approved, unless any of the following is true:

1) The Agency specifies a later effective date in its decision;

2) An owner or operator or another person has appealed the RAP ~~under~~ pursuant to subsection (f) of this Section (if the RAP is appealed, and the request for review is granted ~~under~~ pursuant to subsection (f), conditions of the RAP are stayed according to 35 Ill. Adm. Code 705.202 through 705.204); or

3) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.160 ~~(2002)~~ (2005). The corresponding federal provision provides that a RAP is effective 30 days after the Agency notice of approval. The Board has used 35 days to be consistent with the 35 days within which a permit appeal must be filed ~~under~~ pursuant to Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)].

h) When an owner or operator may begin physical construction of new units permitted under the RAP. An owner or operator must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a final, effective RAP.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.165 ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 703.304 How a RAP May Be Modified, ~~Revoked and~~ Reissued, or Terminated

a) After a RAP is issued, how it may be modified, ~~revoked and~~ reissued, or terminated. In a RAP, the Agency must specify, either directly or by reference, procedures for any future modification, ~~revocation and~~ reissuance, or termination of the RAP. These procedures must provide adequate opportunities for public review and comment on any modification, ~~revocation and~~ reissuance, or termination that would significantly change the owner's or operator's management of its remediation waste, or that otherwise merits public review and comment. If the RAP has been incorporated into a traditional RCRA permit, as allowed ~~under~~ pursuant to Section 703.301(b)(3), then the RAP will be modified according to the applicable requirements in Sections 703.260 through 703.283, ~~revoked and~~ reissued according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or terminated according to the applicable requirements of 35 Ill. Adm. Code 702.186.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.170 ~~(2002)~~ (2005).

b) Reasons for which the Agency may choose to modify a final RAP.

1) The Agency may modify the owner's or operator's final RAP on its own initiative only if one or more of the following reasons listed in this Section exist. If one or more of these reasons do not exist, then the Agency must not modify a final RAP, except at the request of the owner or operator. Reasons for modification are the following:

A) The owner or operator made material and substantial alterations or additions to the activity that justify applying different conditions;

B) The Agency finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

C) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards, or regulations or by judicial decision after the RAP was issued;

D) If the RAP includes any schedules of compliance, the Agency may find reasons to modify the owner's or operator's compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which an owner or operator has little or no

control and for which there is no reasonably available remedy;

E) The owner or operator is not in compliance with conditions of its RAP;

F) The owner or operator failed in the application or during the RAP issuance process to disclose fully all relevant facts, or an owner or operator misrepresented any relevant facts at the time;

G) The Agency has determined that the activity authorized by the owner's or operator's RAP endangers human health or the environment and can only be remedied by modifying the RAP; or

H) The owner or operator has notified the Agency (as required in the RAP and ~~under~~ pursuant to 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of a RAP.

2) Notwithstanding any other provision in this Section, when the Agency reviews a RAP for a land disposal facility ~~under~~ pursuant to Section 703.304(f), it may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 35 Ill. Adm. Code 702, 703, ~~705,~~ and 720 through ~~726~~ 727.

3) The Agency must not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.175 ~~(2002)~~ (2005).

c) Reasons for which the Agency may choose to ~~revoke and~~ reissue a final RAP.

1) The Agency may ~~revoke and~~ reissue a final RAP on its own initiative only if one or more reasons for ~~revocation and~~ reissuance exist. If one or more reasons do not exist, then the Agency must not modify or ~~revoke and~~ reissue a final RAP, except at the owner's or operator's request. Reasons for modification or ~~revocation and~~ reissuance are the same as the reasons listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(H) of this Section if the Agency determines that ~~revocation and~~ reissuance of the RAP is appropriate.

2) The Agency must not reevaluate the suitability of the facility location at the time of RAP ~~revocation and~~ reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.180 ~~(2002)~~ (2005).

d) Reasons for which the Agency may choose to terminate a final RAP, or deny a renewal application. The Agency may terminate a final RAP on its own initiative or deny a renewal application for the same reasons as those listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(G) of this Section if the Agency determines that termination of the RAP or denial of the RAP renewal application is appropriate.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.185 ~~(2002)~~ (2005).

e) Administrative appeal of an Agency decision to approve or deny a modification, reissuance, or termination of a RAP.

1) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to approve a modification, reissuance, or termination of a RAP, according to Section 703.303(f). Any person that did not file comments or did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

2) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to deny a request for modification, reissuance, or termination to the Board. Any person that did not file comments or who did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

3) The procedure for appeals of RAPs is as follows:

A) The person appealing the decision must send a petition to the Board pursuant to 35 Ill. Adm. Code 101 and 105. The petition must briefly set forth the relevant facts, state the defect or fault that serves as the basis for the appeal, and explain the basis for the petitioner's legal standing to pursue the appeal.

B) The Board has 120 days after receiving the petition to act on it.

C) If the Board does not take action on the petition within 120 days after receiving it, the appeal must be considered denied.

BOARD NOTE: Corresponding 40 CFR 270.190(c)(2) and (c)(3) (2002) allow 60 days for administrative review, which is too short a time for the Board to publish the appropriate notices, conduct public

hearings, and conduct its review. Rather, the Board has borrowed the 120 days allowed as adequate time for Board review of permit appeals provided in Section 40(a)(2) of the Act [415 ILCS 5/40(a)(2)].

4) This appeal is a prerequisite to seeking judicial review of the Agency action on the RAP.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.190 ~~(2002)~~ (2005). The corresponding federal provisions provide for informal appeal of an Agency RAP decision. There is no comparable informal procedure ~~under~~ pursuant to Sections 39 and 40 of the Act [415 ILCS 5/39 and 40].

f) Expiration of a RAP. RAPs must be issued for a fixed term, not to exceed ten years, although they may be renewed upon approval by the Agency in fixed increments of no more than ten years. In addition, the Agency must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and the owner or operator or the Agency must follow the requirements for modifying the RAP as necessary to assure that the owner or operator continues to comply with currently applicable requirements in the Act and federal RCRA sections 3004 and 3005 (42 USC 6904 and 6905).

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.195 ~~(2002)~~ (2005).

g) How an owner or operator may renew a RAP that is expiring. If an owner or operator wishes to renew an expiring RAP, the owner or operator must follow the process for application for and issuance of RAPs in this Subpart H.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.200 ~~(2002)~~ (2005).

h) What happens if the owner or operator has applied correctly for a RAP renewal but has not received approval by the time its old RAP expires. If the owner or operator has submitted a timely and complete application for a RAP renewal, but the Agency, through no fault of the owner or operator, has not issued a new RAP with an effective date on or before the expiration date of the previous RAP, the previous RAP conditions continue in force until the effective date of the new RAP or RAP denial.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.205 ~~(2002)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARDS

Section 703.320 Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

a) Facilities with existing permits.

1) Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a RCRA-permitted incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace, when requesting removal of permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b), may request that the Agency address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options:

A) Retain relevant permit conditions. Under this option, the Agency must do the following:

i) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required ~~under~~ pursuant to 40 CFR 63.1206(c)(2) (When and How Must You Comply with the Standards and Operating Requirements?), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and

ii) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

B) Revise relevant permit conditions. Under this option, the ~~Agency must do the~~ following must occur:

i) ~~Identify~~ The Agency must identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; ~~and~~

ii) ~~Retain~~ The Agency must retain or add these permit

requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan~~.~~; and

iii) The owner or operator must comply with subsection (a)(3) of this Section.

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(1)(ii) in this subsection (a)(1)(B) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(1)(ii)(A), (a)(1)(ii)(A)(*1*), and (a)(1)(ii)(A)(*2*) appear as subsections (a)(1)(B), (a)(1)(B)(i), and (a)(1)(B)(ii). The substance of 40 CFR 270.235(a)(1)(ii)(B) has been codified as subsection (a)(3) of this Section. ~~Subsection~~ The Board added subsection (a)(1)(B)(iii) of this Section ~~was added~~ to direct attention to subsection (a)(3).

C) Remove permit conditions. Under this option the following are required:

i) The owner or operator must document that the startup, shutdown, and malfunction plan required ~~under~~ pursuant to 40 CFR 63.1206(c)(2) has been approved ~~by the Administrator under~~ pursuant to 40 CFR 63.1206(c)(2)(ii)(B); and

ii) The Agency must remove permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b).

2) Addressing permit conditions upon permit reissuance. The owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that has conducted a comprehensive performance test and submitted to the Agency a Notification of Compliance documenting compliance with the standards of subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), may request in the application to reissue the permit for the combustion unit that the Agency control emissions from startup, shutdown, and malfunction events under any of the following options:

A) RCRA option A. Under this option, the Agency must do the following:

i) Include, in the permit, conditions that ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) or 726.202(e)(1) and (e)(2)(C) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

ii) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(i) in this subsection (a)(2)(A) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(i)(A), (a)(2)(i)(A)(1), and (a)(2)(i)(A)(2) appear as subsections (a)(2)(A), (a)(2)(A)(i), and (a)(2)(A)(ii).

B) RCRA option B. Under this option, the ~~Agency must do the~~ following must occur:

i) ~~Include,~~ The Agency must include, in the permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; ~~and~~

ii) ~~Specify~~ The Agency must specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan~~.~~;

iii) The owner or operator must comply with subsection (a)(3) of this Section~~.~~; and

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(ii) in this subsection (a)(2)(B) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(ii)(A), (a)(2)(ii)(A)(1), and (a)(2)(ii)(A)(2) appear as subsections (a)(2)(B), (a)(2)(B)(i), and (a)(2)(B)(ii). The substance of 40 CFR 270.235(a)(2)(ii)(B) has been codified as subsection (a)(3) of this Section. ~~Subsection~~ The Board added subsection (a)(2)(B)(iii) of this Section ~~was added~~ to direct attention to subsection (a)(3).

C) CAA option. Under this option the following are required:

i) The owner or operator must document that the startup, shutdown, and malfunction plan required ~~under~~ pursuant to 40 CFR 63.1206(c)(2) has been approved ~~by the Agency under~~ pursuant to 40 CFR 63.1206(c)(2)(ii)(B); and

ii) The Agency must omit from the permit conditions that are not applicable ~~under~~ pursuant to 35 Ill. Adm. Code 724.440(b) and 726.200(b).

3) Changes that may significantly increase emissions.

A) The owner or operator must notify the Agency in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The owner or operator must notify the Agency of such changes within five days of making such changes. The owner or operator must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B) The Agency may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents in either of the following ways:

i) Upon permit renewal; or

ii) If warranted, by modifying the permit ~~under~~ pursuant to Section 703.270 or 703.280 ~~though~~ through 703.283.

BOARD NOTE: The substance of 40 CFR 270.235(a)(1)(ii)(B) and (a)(2)(ii)(B) has been codified as this subsection (a)(3).

b) Interim status facilities.

1) Interim status operations. In compliance with 35 Ill. Adm. Code 725.440 and 726.200(b), the owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 may control emissions of

toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance documenting compliance with the standards of subpart EEE of 40 CFR 63:

A) RCRA option. Under this option, the owner or operator must continue to comply with the interim status emission standards and operating requirements of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

B) CAA option. Under this option, the owner or operator is exempt from the interim status standards of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Agency that the startup, shutdown, and malfunction plan required ~~under~~ pursuant to 40 CFR 63.1206(c)(2) has been approved ~~by the Agency under~~ pursuant to 40 CFR 63.1206(c)(2)(ii)(B).

2) Operations under a subsequent RCRA permit. When an owner or operator of an incinerator, cement kiln, ~~or~~ lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 submits a RCRA permit application, the owner or operator may request that the Agency control emissions from startup, shutdown, and malfunction events under any of the options provided by subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of this Section.

c) New units. A hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace unit that becomes subject to RCRA permit requirements after October 12, 2005 must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:

1) It may comply with the requirements specified in 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

2) It may request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information, including the source's startup, shutdown, and malfunction plan and design. The Agency must specify that these permit conditions apply only when the facility is operating under its startup,

shutdown, and malfunction plan.

BOARD NOTE: Derived from 40 CFR 270.235 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005). Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART J: RCRA STANDARDIZED PERMITS FOR STORAGE AND TREATMENT UNITS

Section 703.350 General Information About RCRA Standardized Permits

a) RCRA standardized permit. A RCRA standardized permit (RCRA) is a special type of permit that authorizes the owner or operator of a facility to manage hazardous waste. A RCRA standardized permit is issued ~~under~~ pursuant to Subpart G of 35 Ill. Adm. Code 705 and this Subpart J.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.250, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Eligibility for a RCRA standardized permit.

1) The facility owner or operator may be eligible for a RCRA standardized permit if the following conditions are fulfilled:

A) The facility generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or containment buildings; or

B) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and the facility stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

C) The Agency must inform the facility owner or operator of its eligibility for a RCRA standardized permit when the Agency makes a decision on its permit application.

2) This subsection (b)(2) corresponds with 40 CFR 270.255(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.255, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Permit requirements applicable to a RCRA standardized permit. The following provisions of this Part and 35 Ill. Adm. Code 702 apply to a RCRA standardized permit:

1) General Information: All provisions derived from subpart A of 40 CFR 270 apply: Sections 703.121 through 703.124, 703.158 through 703.159, and 703.161(a) and 35 Ill. Adm. Code 702.110 ,702.181, and 720.111.

2) Permit Application: All provisions derived from 40 CFR 270.10, 270.11, 270.12, 270.13, and 270.29 in subpart B of 40 CFR 270 apply: Sections 703.125, 703.126, 703.150 though 703.152, 703.157, 703.181, 703.186, 703.188, and 703.240 and 35 Ill. Adm. Code 702.103, 702.120 through 702.124, and 702.126.

3) Permit Conditions: All provisions derived from subpart C of 40 CFR 270 apply: Sections 703.241 through 703.248 and 35 Ill. Adm. Code 702.140 through 702.152, 702.160, and 702.162 through 702.164.

4) Changes to Permit: All provisions derived from 40 CFR 270.40, 270.41, and 270.43 in subpart D of 40 CFR 270 apply: Sections 703.260 and 703.270 though 703.273 and 35 Ill. Adm. Code 702.186.

5) Expiration and Continuation of Permits: All provisions derived from subpart E of 40 CFR 270 apply: 35 Ill. Adm. Code 702.125 and 702.161.

6) Special Forms of Permits: The provision derived from 40 CFR 270.67 in subpart F of 40 CFR 270 apply: Section 703.238.

7) Interim Status: All provisions derived from subpart G of 40 CFR 270 apply: Sections 703.153 through 703.157.

8) Remedial Action Plans: No provisions derived from subpart H of 40 CFR 270 apply: no provisions of Subpart H of 35 Ill. Adm. Code 703 apply.

9) RCRA Standardized Permits: All provisions derived from subpart J of 40 CFR 270 apply: this Subpart J.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.260, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 703.351 Applying for a RCRA Standardized Permit

a) Application procedure. The facility owner or operator may apply for a RCRA

standardized permit by following the procedures in this Subpart J and Subpart G of 35 Ill. Adm. Code 705.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.270, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Information submitted to the Agency to support an application for a RCRA standardized permit. The information in subsections (b)(1) through (b)(10) of this Section will be the basis of an application for a RCRA standardized permit. The facility owner or operator must submit the following information to the Agency when it submits its Notice of Intent pursuant to 35 Ill. Adm. Code 705.301(a)(2) requesting coverage under a RCRA standardized permit:

1) The Part A information described in Section 703.181;

2) A meeting summary and other materials required by 35 Ill. Adm. Code 703.191;

3) Documentation of compliance with the location standards of 35 Ill. Adm. Code 727.110(i) and Sections 703.183(k) and 703.184;

4) This subsection (b)(4) corresponds with 40 CFR 270.275(d), which pertains to submission of information to USEPA relating to implementation of various federal laws (such as the Wild and Scenic Rivers Act (16 USC 1273 et seq.), the National Historic Preservation Act of 1966 (16 USC 470 et seq.), the Endangered Species Act (16 USC 1531 et seq.), the Coastal Zone Management Act (16 USC 1451 et seq.), the Fish and Wildlife Coordination Act (16 USC 661 et seq.), and executive orders). The provision is not necessary in Illinois because the Agency does not implement the cited federal laws. This statement maintains structural consistency with the corresponding federal rules;

5) Solid waste management unit information required by Section 703.187;

6) A certification meeting the requirements of subsection (c) of this Section, and an audit of the facility's compliance status with 35 Ill. Adm. Code 727, as required by subsection (c) of this Section;

7) A closure plan prepared in accordance with 35 Ill. Adm. Code 727.210;

8) The most recent closure cost estimate for the facility prepared pursuant to 35 Ill. Adm. Code 727.240(c) and a copy of the documentation required to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 727.240(d). For a new facility, the owner or operator may gather the required documentation 60 days before the initial receipt of hazardous wastes;

9) If the owner or operator manages wastes generated offsite, the waste analysis plan; and

10) If the owner or operator manages waste generated from off-site, documentation showing that the waste generator and the off-site facility are under the same ownership.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.275, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Certification requirements. The facility owner or operator must submit a signed certification based on an audit of its facility's compliance with 35 Ill. Adm. Code 727.

1) The owner's or operator's certification must read as follows:

I certify under penalty of law that:

1. I have personally examined and am familiar with the report containing the results of an audit conducted of my facility's compliance status with 35 Ill. Adm. Code 727, which supports this certification. Based on my inquiry of those individuals immediately responsible for conducting the audit and preparing the report, I believe that my [include here the language of the applicable of the following two paragraphs:]

existing facility complies with all applicable requirements of 35 Ill. Adm. Code 727 and will continue to comply until the expiration of the permit;

facility has been designed, and will be constructed and operated to comply with all applicable requirements of 35 Ill. Adm. Code 727, and will continue to comply until expiration of the permit;

2. I will make all information that I am required to maintain at my facility by 35 Ill. Adm. Code 703.352 readily available for review by the permitting agency and the public; and

3. I will continue to make all information required by 35 Ill. Adm. Code 703.352 available until the permit expires. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.

2) The owner or operator must sign the certification of subsection (c)(1) of this Section following the requirements of 35 Ill. Adm. Code 702.126(a)(1) through (a)(3).

3) The certification must be based upon an audit that the owner or operator conducted of its facility's compliance status with 35 Ill. Adm. Code 727. A written audit report, signed and certified as accurate by the auditor, must be submitted to the Agency with the 35 Ill. Adm. Code 705.301(a)(2) (Notice of Intent).

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.280, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 703.352 Information That Must Be Kept at the Facility

a) General types of information to be maintained at the facility. The facility owner or operator must keep the following information at its facility:

1) A general description of the facility;

2) Results of chemical and physical analyses of the hazardous waste and hazardous debris handled at the facility. At a minimum, these results of analyses must contain all the information that the owner or operator must know to treat or store the wastes properly pursuant to 35 Ill. Adm. Code 727;

3) A copy of the waste analysis plan required by 35 Ill. Adm. Code 727.110(d)(2);

4) A description of the security procedures and equipment required by 35 Ill. Adm. Code 727.110(e);

5) A copy of the general inspection schedule required by 35 Ill. Adm. Code 727.110(f)(2). The owner or operator must include in the inspection schedule applicable requirements of 35 Ill. Adm. Code 724.933, 724.952, 724.953, 724.958, 724.988, 727.270(e), and 727.290(d) and (f);

6) A justification of any modification of the preparedness and prevention requirements of 35 Ill. Adm. Code 727.130(a) through (f);

7) A copy of the contingency plan required by 35 Ill. Adm. Code 727.150;

8) A description of procedures, structures, or equipment used at the facility to accomplish each of the following:

A) Prevent hazards in unloading operations (for example, use ramps, special forklifts);

B) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, with berms, dikes, trenches, etc.);

C) Prevent contamination of water supplies;

D) Mitigate effects of equipment failure and power outages;

E) Prevent undue exposure of personnel to hazardous waste (for example, requiring protective clothing); and

F) Prevent releases to atmosphere;

9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required by 35 Ill. Adm. Code 727.110(h);

10) The traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes; describe access road surfacing and load bearing capacity; show traffic control signals, etc.);

11) This subsection (a)(11) corresponds with 40 CFR 270.290(k), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

12) An outline of both the introductory and continuing training programs that the owner or operator will use to prepare employees to operate or maintain its facility safely as required by 35 Ill. Adm. Code 727.110(g). A brief description of how training will be designed to meet actual job tasks pursuant to 35 Ill. Adm. Code 727.110(g)(1)(B) requirements;

13) A copy of the closure plan required by 35 Ill. Adm. Code 727.210(c). Include, where applicable, as part of the plans, specific requirements in 35 Ill. Adm. Code 727.270(g), 727.290(l), and 727.900(i);

14) This subsection (a)(14) corresponds with 40 CFR 270.290(n), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

15) The most recent closure cost estimate for the facility prepared pursuant to 35 Ill. Adm. Code 727.240(c) and a copy of the documentation required to

demonstrate financial assurance pursuant to 35 Ill. Adm. Code 727.240(d). For a new facility, the owner or operator may gather the required documentation 60 days before the initial receipt of hazardous wastes;

16) This subsection (a)(16) corresponds with 40 CFR 270.290(p), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

17) Where applicable, a copy of the insurance policy or other documentation that complies with the liability requirements of 35 Ill. Adm. Code 727.240(h). For a new facility, documentation showing the amount of insurance meeting the specification of 35 Ill. Adm. Code 727.240(h)(1) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment or storage;

18) Where appropriate, proof of coverage by a State financial mechanism, as required by 35 Ill. Adm. Code 727.240(j) or 727.240(k);

19) A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). The map must show elevation contours. The contour interval must show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). If the facility is in a mountainous area, the owner or operator should use large contour intervals to adequately show topographic profiles of the facility. The map must clearly show each of the following:

A) The map scale and date;

B) Any 100-year flood plain area;

C) All surface waters including intermittent streams;

D) The surrounding land uses (residential, commercial, agricultural, recreational, etc.);

E) A wind rose (*i.e.*, prevailing windspeed and direction);

F) The orientation of the map (north arrow);

G) Legal boundaries of the facility site;

H) Facility access control (fences, gates);

I) All injection and withdrawal wells both on-site and off-site;

J) All buildings; treatment, storage, or disposal operations; and other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

K) Barriers for drainage or flood control; and

L) The location of operational units within the facility where hazardous waste is (or will be) treated or stored (including equipment cleanup areas).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.290, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Container information to be maintained at the facility. If the facility owner or operator stores or treats hazardous waste in containers, it must keep the following information at its facility:

1) A description of the containment system to demonstrate compliance with the container storage area provisions of 35 Ill. Adm. Code 727.270(d). This description must show the following information:

A) The basic design parameters, dimensions, and materials of construction;

B) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

C) The capacity of the containment system relative to the number and volume of containers to be stored;

D) The provisions for preventing or managing run-on; and

E) How accumulated liquids can be analyzed and removed to prevent overflow;

2) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 35 Ill. Adm. Code 727.270(d)(3), including the following:

A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

B) A description of how the storage area is designed or operated to

drain and remove liquids or how containers are kept from contact with standing liquids;

3) Sketches, drawings, or data demonstrating compliance with 35 Ill. Adm. Code 727.270(e) (location of buffer zone (15m or 50ft) and containers holding ignitable or reactive wastes) and 35 Ill. Adm. Code 727.270(f)(3) (location of incompatible wastes in relation to each other), where applicable;

4) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 35 Ill. Adm. Code 727.270(f)(1) and (f)(2), and 35 Ill. Adm. Code 727.110(h)(2) and (h)(3); and

5) Information on air emission control equipment as required by Section 703.352(e).

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.300, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Tank information to be maintained at the facility. If the facility owner or operator uses tanks to store or treat hazardous waste, it must keep the following information at its facility:

1) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer on the structural integrity and suitability for handling hazardous waste of each tank system, as required pursuant to 35 Ill. Adm. Code 727.290(b) and (c);

2) The dimensions and capacity of each tank;

3) A description of feed systems, safety cutoff, bypass systems, and pressure controls (*e.g.*, vents);

4) A diagram of piping, instrumentation, and process flow for each tank system;

5) A description of materials and equipment used to provide external corrosion protection, as required pursuant to 35 Ill. Adm. Code 727.290(b);

6) For new tank systems, a detailed description of how the tank systems will be installed in compliance with 35 Ill. Adm. Code 727.290(c) and (e);

7) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to

meet the requirements of 35 Ill. Adm. Code 727.290(f) and (g);

8) This subsection (c)(8) corresponds with 40 CFR 270.305(h), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

9) A description of controls and practices to prevent spills and overflows, as required pursuant to 35 Ill. Adm. Code 727.290(i);

10) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with 35 Ill. Adm. Code 727.290(m) and (n); and

11) Information on air emission control equipment, as required by Section 703.352(e).

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.305, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Equipment information to be maintained at the facility. If the facility has equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the facility owner or operator must keep the following information at its facility:

1) For each piece of equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the following:

A) The equipment identification number and hazardous waste management unit identification;

B) The approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);

C) The type of equipment (e.g., a pump or a pipeline valve);

D) The percent by weight of total organics in the hazardous waste stream at the equipment;

E) The phase of the hazardous waste at the equipment (e.g., gas or vapor or liquid); and

F) The method of compliance with the standard (e.g., monthly leak detection and repair, or equipped with dual mechanical seals);

2) For a facility that cannot install a closed-vent system and control device to comply with Subpart BB of 35 Ill. Adm. Code 724 on the effective date

that the facility becomes subject to the Subpart BB provisions, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2);

3) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 and 724.959. This documentation must contain the records required pursuant to 35 Ill. Adm. Code 724.964; and

4) Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960, which must include the following information:

A) A list of all information references and sources used in preparing the documentation;

B) Records, including the dates, of each compliance test required by 35 Ill. Adm. Code 724.933(j);

C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a) or other engineering texts acceptable to the Agency that present basic control device design information. The design analysis must address the vent stream characteristics and control device operation parameters, as specified in 35 Ill. Adm. Code 724.935(b)(4)(iii);

D) A statement signed and dated by the facility owner or operator that certifies that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonable expected to occur; and

E) A statement signed and dated by the facility owner or operator that certifies that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 270.310, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Air emissions control information to be maintained at the facility. If the facility owner or operator has air emission control equipment subject to Subpart CC of 35 Ill. Adm. Code 724, it must keep the following information at its facility:

1) Documentation for each floating roof cover installed on a tank subject to 35 Ill. Adm. Code 724.984(d)(1) or (d)(2) that includes information that

the owner or operator prepared or the cover manufacturer or vendor provided describing the cover design, and the owner's or operator's certification that the cover meets applicable design specifications listed in 35 Ill. Adm. Code 724.984(e)(1) or (f)(1);

2) Identification of each container area subject to Subpart CC of 35 Ill. Adm. Code 724 and the owner's or operator's certification that the requirements of this Subpart J are met;

3) Documentation for each enclosure used to control air pollutant emissions from tanks or containers pursuant to requirements of 35 Ill. Adm. Code 724.984(d)(5) or 724.986(e)(1)(B). The owner or operator must include records for the most recent set of calculations and measurements that it performed to verify that the enclosure meets the criteria of a permanent total enclosure as specified in appendix B to 40 CFR 52.741 (Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

4) This subsection (e)(4) corresponds with 40 CFR 270.315(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;

5) Documentation for each closed-vent system and control device installed pursuant to 35 Ill. Adm. Code 724.987 that includes design and performance information, as specified in Section 703.210(c) and (d); and

6) An emission monitoring plan for both Method 21 in appendix A to 40 CFR 60 (Determination of Volatile Organic Compound Leaks), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and control device monitoring methods. This plan must include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedences, and procedures for mitigating noncompliances.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 270.315, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 703.353 Modifying a RCRA Standardized Permit

A facility owner or operator can modify its RCRA standardized permit by following the procedures found in 35 Ill. Adm. Code 705.304.

BOARD NOTE: Derived from 40 CFR 270.320, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 703.Appendix A Classification of Permit Modifications

Class	Modifications
	A. General Permit Provisions
1	1. Administrative and informational changes.
1	2. Correction of typographical errors.
1	3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).
	4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:
1	a. To provide for more frequent monitoring, reporting, or maintenance.
2	b. Other changes.
	5. Schedule of compliance:
1*	a. Changes in interim compliance dates, with prior approval of the Agency.
3	b. Extension of final compliance date.
1*	6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Agency.
1*	7. Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed.
1*	8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).
	B. General Facility Standards
	1. Changes to waste sampling or analysis methods:
1	a. To conform with Agency guidance or Board regulations.

1*		b.	To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.
1*		c.	To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.
2		d.	Other changes.
	2.	Changes to analytical quality assurance or quality control plan:	
1		a.	To conform with agency guidance or regulations.
2		b.	Other changes.
1	3.	Changes in procedures for maintaining the operating record.	
2	4.	Changes in frequency or content of inspection schedules.	
	5.	Changes in the training plan:	
2		a.	That affect the type or decrease the amount of training given to employees.
1		b.	Other changes.
	6.	Contingency plan:	
2		a.	Changes in emergency procedures (i.e., spill or release response procedures).
1		b.	Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.
2		c.	Removal of equipment from emergency equipment list.
1		d.	Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.
		Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.	
	7.	CQA plan:	

1 a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.

2 b. Other changes.

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

C. Groundwater Protection

1. Changes to wells:

2 a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system.

1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.

1* 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.

1* 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.

2* 4. Changes in point of compliance.

5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs (Alternate Concentration Limits)):

3 a. As specified in the groundwater protection standard.

2 b. As specified in the detection monitoring program.

2 6. Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(j), unless otherwise specified in this Appendix.

7. Compliance monitoring program:

3 a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(h)(4) and 724.199.

2 b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(k), unless otherwise specified in this Appendix.

8. Corrective action program:

3 a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(i)(2) and 724.200.

2 b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.

D. Closure

1. Changes to the closure plan:

1* a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.

1* b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.

1* c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.

1* d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.

2 e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.

2 f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 35 Ill. Adm. Code 724.213(d) or (e).

3 2. Creation of a new landfill unit as part of closure.

3. Addition of the following new units to be used temporarily for closure activities:

3 a. Surface impoundments.

3 b. Incinerators.

3 c. Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).

2 d. Waste piles that comply with 35 Ill. Adm. Code 724.350(c).

2 e. Tanks or containers (other than specified in paragraph D(3)(f) below).

1* f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Agency.

2 g. Staging piles.

E. Post-Closure

1 1. Changes in name, address, or phone number of contact in post-closure plan.

2 2. Extension of post-closure care period.

3 3. Reduction in the post-closure care period.

1 4. Changes to the expected year of final closure, where other permit conditions are not changed.

2 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.

F. Containers

1. Modification or addition of container units:

3 a. Resulting in greater than 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).

2 b. Resulting in up to 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).

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

2. Modification of container units without an increased capacity or alteration of the system:

2 a. Modification of a container unit without increasing the capacity of the unit.

1 b. Addition of a roof to a container unit without alteration of the containment system.

3. Storage of different wastes in containers, except as provided in F(4):

3 a. That require additional or different management practices from those authorized in the permit.

2 b. That do not require additional or different management practices from those authorized in the permit.

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

4. Storage or treatment of different wastes in containers:

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

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

G. Tanks

1. Modification of a tank unit, secondary containment system, or treatment process that increases tank capacity, adds a new tank, or alters treatment, specified as follows:

3 a. Modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d), and G(1)(e).

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

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

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

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

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

1 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ± 10 percent of the replaced tank provided:

a. The capacity difference is no more than 1500 gallons,

b. The facility's permitted tank capacity is not increased, and

c. The replacement tank meets the same conditions in the permit.

2 4. Modification of a tank management practice.

5. Management of different wastes in tanks:

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

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

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

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

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

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

H. Surface Impoundments

3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.

3 2. Replacement of a surface impoundment unit.

2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.

2 4. Modification of a surface impoundment management practice.

5. Treatment, storage, or disposal of different wastes in surface impoundments:

3 a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.

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

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

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

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

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

7. Changes in response action plan:

3 a. Increase in action leakage rate.

3 b. Change in a specific response reducing its frequency or effectiveness.

2 c. Other changes.

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

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

1. Modification or addition of waste pile units:

3 a. Resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity.

2 b. Resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity.

2 2. Modification of waste pile unit without increasing the capacity of the unit.

1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.

2 4. Modification of a waste pile management practice.

5. Storage or treatment of different wastes in waste piles:

3 a. That require additional or different management practices or different design of the unit.

2 b. That do not require additional or different management practices or different design of the unit.

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

2 6. Conversion of an enclosed waste pile to a containment building unit.

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

J. Landfills and Unenclosed Waste Piles

3 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.

3 2. Replacement of a landfill.

3	3.		Addition or modification of a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
2	4.		Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
2	5.		Modification of a landfill management practice.
	6.		Landfill different wastes:
3		a.	That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.
2		b.	That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system. Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
1		c.	That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
1		d.	That are residues from wastewater treatment or incineration, provided the disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2) (Procedures for Case-by-Case Extensions to an Effective Date), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
1*	7.		Modification of unconstructed units to comply with 35 Ill. Adm. Code 724.351(c), 724.352, 724.353, 724.354(c), 724.401(c), 724.402, 724.403(c), and 724.404.
	8.		Changes in response action plan:
3		a.	Increase in action leakage rate.

3 b. Change in a specific response reducing its frequency or effectiveness.

2 c. Other changes.

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

K. Land Treatment

3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.

2 2. Modification of runon control system.

3 3. Modify runoff control system.

2 4. Other modification of land treatment unit component specifications or standards required in permit.

5. Management of different wastes in land treatment units:

3 a. That require a change in permit operating conditions or unit design specifications.

2 b. That do not require a change in permit operating conditions or unit design specifications.

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

6. Modification of a land treatment unit management practice to:

3 a. Increase rate or change method of waste application.

1 b. Decrease rate of waste application.

2 7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.

3 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.

3	9.	Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).
3	10.	Changes in the unsaturated zone monitoring system that result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.
2	11.	Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.
2	12.	Changes in background values for hazardous constituents in soil and soil-pore liquid.
2	13.	Changes in sampling, analysis, or statistical procedure.
2	14.	Changes in land treatment demonstration program prior to or during the demonstration.
1*	15.	Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.
1*	16.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.
3	17.	Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.
2	18.	Changes in vegetative cover requirements for closure.

L. Incinerators, Boilers and Industrial Furnaces

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

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

3 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units; by adding a primary or secondary combustion unit; by substantially changing the design of any component used to remove HCl/Cl_2, metals, or particulate from the combustion gases; or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

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

5. Operating requirements:

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

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

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

6. Burning different wastes:

3 a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit, the Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

2 b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

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

7. Shakedown and trial burn:

2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.

1* b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.

1* c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.

1* d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.

1 8. Substitution of an alternative type of non-hazardous waste fuel that is not specified in the permit.

1* 9. Technology changes needed to meet standards under federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), provided the procedures of Section 703.280(j) are followed.

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

M. Containment Buildings

1. Modification or addition of containment building units:

3 a. Resulting in greater than 25 percent increase in the facility's containment building storage or treatment capacity.

2 b. Resulting in up to 25 percent increase in the facility's containment building storage or treatment capacity.

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

3. Replacement of a containment building with a containment building that meets the same design standards provided:

1 a. The unit capacity is not increased.

1 b. The replacement containment building meets the same conditions in the permit.

2 4. Modification of a containment building management practice.

5. Storage or treatment of different wastes in containment buildings:

3 a. That require additional or different management practices.

2 b. That do not require additional or different management practices.

N. Corrective Action

3	1.	Approval of a corrective action management unit pursuant to 35 Ill. Adm. Code 724.652.
2	2.	Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.
2	3.	Approval of a staging pile or staging pile operating term extension pursuant to 35 Ill. Adm. Code 724.654.

Note: * indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from appendix I to 40 CFR 270.42 (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 704
UIC PERMIT PROGRAM

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SUBPART H: ISSUED PERMITS

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

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

SOURCE: Adopted in R81-32~~, at 47 PCB 95,~~ at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478, effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective

February 20, 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended in R00-11/R01-1 at 24 Ill. Reg. 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. 11139, effective August 14, 2001; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 704.101 Content

The regulations in this Subpart A set forth the specific requirements for the UIC (Underground Injection Control) permit program. These rules are intended to implement the UIC permit requirement of Section 12(g) of the Environmental Protection Act (Act) [415 ILCS 5/12(g)]. These rules are intended to be identical in substance to United States Environmental Protection Agency (USEPA) rules found in 40 CFR 144 ~~(1987)~~. The regulations in this Subpart A are supplemental to the requirements in 35 Ill. Adm. Code 702, which contains requirements for both the RCRA and UIC permit programs. Operating requirements for injection wells are included in 35 Ill. Adm. Code 730.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.1~~(1987)~~ (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.102 Scope of the Permit or Rule Requirement

Although five classes of wells are set forth in Section 704.106, the UIC (Underground Injection Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates underground injection for only four classes of wells (see definition of "well injection," 35 Ill. Adm. Code 702.110). Class II wells (Section 704.106(b)) are not subject to the requirements found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells is regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). ~~All owners~~ The owner or ~~operators~~ operator of a Class I, Class III, Class IV, or Class V injection ~~wells~~ well must be authorized either by permit or rule. In carrying out the mandate of the SDWA, this Part provides that no injection ~~must~~ may be authorized by permit or rule if it results in movement of fluid containing any contaminant into underground sources of drinking water (USDWs) (Section 704.122) if the presence of that contaminant may cause a violation of any primary drinking water regulation under ~~40 CFR 142~~ 35 Ill. Adm. Code 611 or may adversely affect the health of persons (Section 704.122). Section 704.124 prohibits the construction, operation, or maintenance of a Class IV injection well. A Class V ~~wells are~~ injection well is regulated under Subpart I of this Part. If remedial action appears necessary ~~prior to the establishment of regulations directly applicable to a specific type of~~ for a Class V injection well, an individual permit may be required (Subpart C of this Part) or the Agency must require remedial action or closure by order (see Section 704.122(c)).

BOARD NOTE: Derived from 40 CFR 144.1(g) preamble ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.103 Identification of Aquifers

During UIC program development, the Agency may identify aquifers and portions of aquifers ~~with~~ that are actual or potential sources of drinking water. This identification will provide an aid to the Agency in carrying out its duty to protect all USDWs. An aquifer is a USDW if it fits the definition, even if it has not been ~~"~~identified by the Agency.~~"~~

BOARD NOTE: See 35 Ill. Adm. Code 702.106. Derived from 40 CFR 144.1(g) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.104 Exempted Aquifers

The Board may designate "exempted aquifers" using criteria in 35 Ill. Adm. Code 730. Such ~~aquifers are those~~ an aquifer is one that would otherwise qualify as ~~"underground sources of drinking water"~~ a USDW to be protected, but which ~~have~~ has no real potential to be used as a source of drinking water ~~sources~~. Therefore they are not USDWs. No aquifer is an "exempted aquifer" until it has been affirmatively designated under the procedures in Section 704.123. ~~Aquifers~~ An aquifer that ~~do~~ does not fit the definition of ~~"underground sources of drinking water" are~~ a USDW is not ~~"~~an exempted ~~aquifers~~ aquifer.~~"~~ ~~They are~~ It is simply not subject to the special protection afforded ~~USDWs~~ a USDW.

BOARD NOTE: See 35 Ill. Adm. Code 702.105. Derived from 40 CFR 144.1(g) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.105 Specific Inclusions and Exclusions

a) The following wells are included among those types of injection activities that are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)

1) Any injection well located on a drilling platform inside territorial waters of the State of Illinois;

2) Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids;

3) Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be a septic ~~systems and cesspools~~ system or cesspool, regardless of ~~their~~ its capacity;

4) Any septic tank, cesspool, or other well used by a multiple dwelling, community, or regional system for the injection of wastes.

b) The following are not covered by this Part:

1) ~~Injection wells~~ An injection well located on a drilling platform or other site that is beyond the territorial waters of the State of Illinois;

2) ~~Individual~~ An individual or single family residential waste disposal ~~systems~~ system, such as a domestic ~~cesspools~~ cesspool or septic ~~systems~~ system;

3) ~~Nonresidential cesspools,~~ A nonresidential cesspool, septic ~~systems,~~ system, or similar waste disposal ~~systems~~ system if such ~~systems are~~ system is used solely for the disposal of sanitary waste, and ~~have~~ has the capacity to serve fewer than 20 persons a day;

4) ~~Injection wells~~ An injection well used for injection of hydrocarbons that are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage;

5) Any dug hole, drilled hole, or bored shaft that is not used for the subsurface emplacement of fluids;

6) A Class II ~~wells~~ injection well.

c) The prohibition applicable to a Class IV ~~wells~~ injection well under Section 704.124 does not apply to ~~injections~~ injection of hazardous wastes into ~~aquifers~~ an aquifer or ~~portions thereof~~ portion of an aquifer that ~~have~~ has been exempted pursuant to 35 Ill. Adm. Code 730.104.

BOARD NOTE: Derived from 40 CFR 144.1(g)(1) through (g)(3) ~~(1999), as amended at 64 Fed. Reg. 68565 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.106 Classification of Injection Wells

Injection wells are classified as follows:

a) Class I injection wells. Any of the following is a Class I injection well:

1) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous ~~wastes~~ waste or ~~owners~~ the owner or ~~operators~~ operator of a hazardous waste management ~~facilities~~ facility to inject hazardous waste beneath the lowermost

formation containing~~, within 402 meters (one-quarter mile) of the well bore, an underground source of drinking water~~ a USDW within 402 meters (one-quarter mile) of the well bore.

2) ~~Other~~ Any other industrial and municipal disposal ~~wells which inject~~ well that injects fluids beneath the lowermost formation containing~~, within 402 meters (one-quarter mile) of the well bore an underground source of drinking water~~ a USDW within 402 meters (one-quarter mile) of the well bore.

3) ~~Radioactive~~ A radioactive waste disposal ~~wells~~ well that ~~inject~~ injects fluids below the lowermost formation containing ~~an underground source of drinking water~~ a USDW within 402 meters (one-quarter mile) of the well bore.

b) Class II injection wells. ~~Wells which inject~~ Any well that injects any of the following fluids is a Class II injection well:

1) ~~Which~~ Fluids that are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and which may be commingled with waste waters from gas plants ~~which~~ that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

2) ~~For~~ Fluids injected for enhanced recovery of oil or natural gas; and

3) ~~For~~ Fluids injected for storage of hydrocarbons ~~which~~ that are liquid at standard temperature and pressure.

c) Class III injection wells. ~~Wells which inject~~ Any well that injects fluids for the extraction of minerals, including the following:

1) ~~Mining~~ The mining of sulfur by the Frasch process;

2) ~~In situ~~ The in-situ production of uranium or other metals~~;~~. ~~this~~ This category includes only ~~in situ~~ in-situ production from ore bodies ~~which~~ that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included ~~in~~ as a Class V injection well; and

3) Solution mining of salts or potash.

d) Class IV injection wells. Any of the following is a Class IV injection well:

1) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous ~~wastes~~ waste or of radioactive ~~wastes~~ waste, by ~~owners and operators~~ the owner or

operator of a hazardous waste management ~~facilities~~ facility or by ~~owners and operators~~ the owner or operator of a radioactive waste disposal ~~sites~~ site to dispose of hazardous wastes or radioactive wastes into a formation ~~which within 402 meters (one-quarter mile) of the well~~ that contains ~~an underground source of drinking water~~ a USDW within 402 meters (one-quarter mile) of the well.

2) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous waste or of radioactive waste, by ~~owners and operators~~ the owner or operator of a hazardous waste management ~~facilities,~~ facility, or by ~~owners and operators~~ the owner or operator of a radioactive waste disposal ~~sites~~ site to dispose of hazardous waste or radioactive waste above a formation ~~which within 402 meters (one-quarter mile) of the well~~ that contains ~~an underground source of drinking water~~ a USDW within 402 meters (one-quarter mile) of the well.

3) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous waste or ~~owners and operators~~ the owner or operator of a hazardous waste management ~~facilities~~ facility to dispose of hazardous waste, ~~which~~ that cannot be ~~classifed~~ classified under any of subsections (a)(1)~~,~~ ~~or~~ (d)(1)~~,~~ ~~and~~ or (d)(2) of this Section (e.g., ~~wells~~ a well that is used to dispose of hazardous waste into or above a formation ~~which~~ that contains an aquifer ~~which~~ that has been exempted pursuant to 35 Ill. Adm. Code 730.104).

e) Class V injection wells. ~~Injection wells~~ Any injection well that is not ~~included in Classes~~ classified as a Class I, II, III, or IV injection well.

BOARD NOTE: Derived from 40 CFR 144.6 ~~(1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.107 Definitions

The definitions of 35 Ill. Adm. Code 702 apply to this Part ~~704~~. Specific types of Class V injection wells are described in Section 704.281.

BOARD NOTE: Derived from 40 CFR 144.3 (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.108 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3 and 145.11(a)(33), as added at 70 Fed. Reg. 59848

(Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART B: PROHIBITIONS

Section 704.121 Prohibition ~~of~~ Against Unauthorized Injection

Any underground injection, except into a well authorized by permit or rule issued ~~under~~ pursuant to this ~~part~~ Part and 35 Ill. Adm. Code 705~~, as applicable,~~ is prohibited. The construction of any well required to have a permit under this Part is prohibited until the permit has been issued.

BOARD NOTE: Derived from 40 CFR 144.11 ~~(1993), as amended at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.122 Prohibition ~~of~~ Against Movement of Fluid into USDW

a) No owner or operator ~~shall~~ may construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into ~~underground sources of drinking water~~ a USDW, if the presence of that contaminant ~~may~~ could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR ~~142,~~ 141) ~~incorporated by reference in 35 Ill. Adm. Code 702.104,~~ or ~~may~~ could otherwise adversely affect the health of persons. The applicant for a permit ~~shall have~~ has the burden of showing that the requirement of this ~~paragraph~~ subsection (a) ~~are~~ is met.

b) For a Class I ~~and~~ or III ~~wells~~ injection well, if any water quality monitoring of ~~an underground source of drinking water~~ a USDW indicates the movement of ~~a~~ any contaminant into the ~~underground source of drinking water~~ USDW, except as authorized under 35 Ill. Adm. Code 730, the Agency ~~shall~~ must prescribe such additional requirements for construction, corrective action, operation, monitoring or reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of ~~wells~~ a well authorized by permit, these additional requirements ~~shall~~ must be imposed by modifying the permit in accordance with 35 Ill. Adm. Code 702.183 through 702.185, ~~or the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists,~~ or appropriate enforcement action may be taken if the permit has been violated, and the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists. In the case of wells authorized by rule, see Section 704.141 through 704.146.

c) For a Class V ~~wells~~ injection well, if at any time the Agency learns that a Class V injection well ~~may~~ could cause a violation of any national primary drinking water ~~regulations~~ regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR ~~142,~~

~~incorporated by reference in 35 Ill. Adm. Code 702.104~~ 141), it ~~shall~~ must undertake one of the following actions:

1) ~~Require~~ It must require the injector to obtain an individual permit;

2) ~~Issue~~ It must issue a permit ~~which~~ that requires the injector to take such actions (including, where ~~required~~ necessary, closure of the injection well) as may be necessary to prevent the violation; or

3) ~~Take~~ It may initiate enforcement action.

d) Whenever the Agency learns that a Class V injection well may be otherwise adversely affecting the health of persons, it may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (c) of this Section.

e) Notwithstanding any other provision of this Section, the Agency may take emergency action upon receipt of information that a contaminant ~~which~~ that is present in or is likely to enter a public water system or ~~underground source of drinking water~~ a USDW may present an imminent and substantial endangerment to the health of persons. The Agency may declare an emergency and affix a seal pursuant to Section 34 of the Act [415 ILCS 5/34].

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.12 ~~(1987)~~ (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.123 Identification of ~~USDW~~ USDWs and Exempted Aquifers

a) The Agency may identify (by narrative description, illustrations, maps, or other means) and ~~shall~~ must protect, except where exempted under subsection (b) ~~below~~ of this Section, as ~~an underground source of drinking water~~ a USDW, ~~all aquifers~~ any aquifer or ~~parts~~ part of ~~aquifers~~ an aquifer that ~~meet~~ meets the definition of ~~an "underground source of drinking water"~~ a USDW in 35 Ill. Adm. Code 702.110. Even if an aquifer has not been specifically identified by the Agency, it is ~~an underground source of drinking water~~ a USDW if it meets the definition in 35 Ill. Adm. Code 702.110. Identification of USDWs ~~shall~~ must be ~~by Agency~~ made according to criteria adopted by the Agency pursuant to 35 Ill. Adm. Code 702.106.

b) Identification of an exempted aquifer.

1) The Agency may identify (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, any aquifer or part of an aquifer that the Agency desires the Board to designate

as an exempted aquifer using the criteria in 35 Ill. Adm. Code 730.104, as described in this subsection (b).

2) No designation of an exempted aquifer ~~shall~~ may be final until approved by ~~the Administrator~~ USEPA as part of the State program.

3) Subsequent to program approval, the Board may~~, after notice and opportunity for a public hearing,~~ identify additional exempted aquifers.

4) Identification of exempted aquifers ~~shall~~ must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [415 ILCS 5/27 and 28], considering the criteria set forth in 35 Ill. Adm. Code 730.104.

c) For a Class III ~~wells~~ injection well, an applicant for a permit that necessitates an aquifer exemption under 35 Ill. Adm. Code 730.104(b)(1) ~~shall~~ must furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone ~~shall~~ must be considered by the Board in addition to the information required by Section 704.161(c). Approval of the exempted aquifer ~~shall~~ must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [415 ILCS 5/27 and 28]. Rules ~~shall~~ will not become final until approved by ~~the Administrator~~ USEPA as a program revision.

BOARD NOTE: Derived from 40 CFR 144.7 ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.124 Prohibition ~~of~~ Against Class IV Injection Wells

a) The following are prohibited, except as provided in subsection (c) of this Section:

1) The construction of any Class IV injection well.

2) The operation or maintenance of any Class IV injection well.

3) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV injection well.

b) A Class IV ~~wells~~ injection well must comply with the requirements of Section 704.203~~,~~ and ~~with~~ the Class IV injection well closure requirements of Section 704.145 ~~regarding closure of Class IV wells~~.

c) ~~Wells~~ A well used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was originally drawn ~~are~~ is not prohibited by this Section if such injection is approved by the Agency pursuant to provisions in the Act for preventive or corrective action, ~~or~~ by the USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA)~~,~~ (42 ~~U.S.C.~~ USC 9601~~-9657~~ et seq.), ~~or~~ by USEPA pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA)~~,~~ (42 ~~U.S.C.~~ USC 6901~~-6987~~ et seq.), or by the Agency pursuant to Section 39 of the Act [415 ILCS 5/39].

d) Clarification. ~~The~~ This Section does not prohibit any of the following injection wells~~ are not prohibited by this Section~~:

1) ~~Wells~~ A well used to inject hazardous waste into ~~aquifers~~ an aquifer or ~~portions thereof~~ a portion of an aquifer that ~~have~~ has been exempted pursuant to 35 Ill. Adm. Code 730.104 if the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW. Such ~~wells are~~ a well is a Class I ~~wells~~ injection well, as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I ~~wells~~ injection well.

2) ~~Wells~~ A well used to inject hazardous waste where no USDW exists within one quarter mile of the well bore in any underground formation, provided that the Agency determines that such injection is into a formation sufficiently isolated to ensure that injected fluids do not migrate from the injection zone. Such ~~wells are~~ a well is a Class I ~~wells~~ injection well, as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I ~~wells~~ injection well.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.13 (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section 704.141 Existing Class I and III Injection Wells

a) Injection into an existing Class I ~~and~~ or Class III ~~wells~~ injection well is authorized by rule if the owner or operator fulfills either of the conditions of subsection (a)(1) or (a)(2) of this Section, subject to subject (a)(3) of this Section:

1) ~~Injected~~ It injected into the existing well within one year after March 3,

1984, or

2) ~~Inventories~~ It inventories the well pursuant to ~~the requirements of~~ Section 704.148.

3) The owner or operator of a well that is authorized by rule pursuant to this Section ~~shall~~ must rework, operate, maintain, convert, plug, abandon, or inject into the well in compliance with applicable regulations.

b) Class III injection wells in existing fields or projects. Notwithstanding the prohibition in Section 704.121, this Section authorizes Class III injection wells or projects in existing fields or projects to continue normal operations until permitted, including construction, operation, and plugging and abandonment of wells as part of the operation provided the owner or operator maintains compliance with all applicable requirements.

BOARD NOTE: Derived from 40 CFR 144.21(a) and (d) ~~(1993), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.142 Prohibitions ~~on~~ Against Injection into Wells Authorized by Rule

An owner or operator of a well authorized by rule pursuant to this Subpart C is prohibited from injecting into the well on the occurrence of any of the following:

a) Upon the effective date of an applicable permit denial;

b) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;

c) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148;

d) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149;

e) Upon a failure to provide alternative financial assurance pursuant to Section 704.150(d)(6);

f) 48 hours after receipt of a determination by the Agency pursuant to Section 704.150(f)(3) that the well lacks mechanical integrity, unless the Agency orders immediate cessation pursuant to Section 34 of the Act or as ordered by a court pursuant to Section 43 of the Act [415 ILCS 5/43];

g) Upon receipt of notification from the Agency that the transferee has not

demonstrated financial assurance pursuant to Section 704.150(d); ~~or~~

h) For Class I and Class III injection wells: after March 3, 1989, unless a timely and complete permit application for a permit was pending the Agency's decision; or

i) This subsection (i) corresponds with 40 CFR 144.21(c)(9), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with ~~U.S. EPA~~ USEPA rules.

BOARD NOTE: Derived from 40 CFR 144.21(c)~~, as added at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.143 Expiration of Authorization

The authorization provided in Section 704.141 ~~shall expire~~ expires upon the earliest of the following events:

a) Upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163;

b) After plugging or abandonment in accordance with an approved plugging and abandonment plan pursuant to Section 704.150(c) and 35 Ill. Adm. Code 730.110, and upon submission of a plugging and abandonment report pursuant to Section 704.150(k); or

c) Upon conversion in compliance with Section 704.150(j).

BOARD NOTE: Derived from 40 CFR 144.21(b) ~~(1993), as renumbered and amended at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.144 Requirements

Any person authorized by rule under Section 704.141 ~~shall~~ must comply with the applicable requirements of Section 704.148 and 35 Ill. Adm. Code 730.

BOARD NOTE: Derived from 40 CFR 144.21(e) ~~(1993), as amended and renumbered at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.145 Existing Class IV Injection Wells

a) Injection into a Class IV ~~wells~~ injection well, as defined in Section 704.106(d)(1), is not authorized. The owner or operator of any such well must comply with Sections 704.124 and 704.203.

b) Closure.

1) Prior to abandoning any Class IV injection well, the owner or operator must plug or otherwise close the well in a manner acceptable to the Agency.

2) By September 27, 1986, the owner and operator of any Class IV injection well was to have submitted to the Agency a plan for plugging or otherwise closing and abandoning the well.

3) The owner or operator of a Class IV injection well must notify the Agency of intent to abandon the well at least 30 days prior to abandonment.

c) Notwithstanding ~~the requirements of~~ subsections (a) and (b) of this Section, an injection ~~wells~~ well that is used to inject contaminated groundwater that has been treated and which is being injected into the same formation from which it was drawn ~~are~~ is authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by USEPA~~,~~ pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)~~,~~ (42 ~~U.S.C.~~ USC 9601~~-9675~~ et seq.), ~~or~~ by USEPA pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA)~~,~~ (42 ~~U.S.C.~~ USC 6901~~-6987~~ et seq.), or by the the Agency~~,~~ pursuant to Section 39 of the Act [415 ILCS 5/39].

BOARD NOTE: Derived from 40 CFR 144.23 ~~(1999), as amended at 64 Fed. Reg. 68566 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.146 Class V Injection Wells

a) A Class V injection well is authorized by rule, subject to the conditions set forth in Section 704.284.

b) Duration of well authorization by rule. Well authorization under this Section expires upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.

c) Prohibition of injection. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well on the

occurrence of any of the following:

1) Upon the effective date of an applicable permit denial;

2) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;

3) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148; or

4) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149.

BOARD NOTE: Derived from 40 CFR 144.24 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.147 Requiring a Permit

a) The Agency may require the owner or operator of any Class I, Class III, or Class V injection well that is authorized by rule under this Subpart C to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include the following:

1) The injection well is not in compliance with any requirement of this Subpart C;

BOARD NOTE: Any underground injection that violates any rule under this Subpart C is subject to appropriate enforcement action.

2) The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule;

3) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, ~~which~~ that are not contained in this Subpart~~.~~ C; or

4) When the injection well is a Class I or Class III injection well, in accordance with a schedule established by the Agency pursuant to Section 704.161(b).

b) The Agency may require the owner or operator of any well that is authorized by rule under this Subpart C to apply for an individual or area UIC permit under this subsection (b) only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well that is authorized by rule is prohibited from injecting into the well~~:~~ on the occurrence of either of

the circumstances of subsection (b)(1) or (b)(2) of this Section, subject to subsection (b)(3) of this Section.

1) Upon the effective date of a permit denial~~,~~; or

2) Upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice.

3) The notice ~~shall~~ must include all of the following:

A) A brief statement of the reasons for this decision;

B) An application form;

C) A statement setting a time for the owner or operator to file the application; and

D) A statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this subsection (b).

c) An owner or operator of a well that is authorized by rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator ~~shall~~ must submit to the Agency an application under Section 704.161 with reasons supporting the request~~, to the Agency~~. The Agency may grant any such request.

BOARD NOTE: Derived from 40 CFR 144.25~~, as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.148 Inventory Requirements

The owner or operator of an injection well that is authorized by rule under this Subpart C must submit inventory information to the Agency. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well to the Agency within the time frame specified in subsection (d) ~~or (e)~~ of this Section.

a) Contents. As part of the inventory, the owner or operator must submit at least the following information:

1) ~~Facility~~ The facility name and location;

2) ~~Name~~ The name and address of legal contact;

3) ~~Ownership~~ The ownership of facility;

4) ~~Nature~~ The nature and type of injection wells; and

5) ~~Operating~~ The operating status of injection wells.

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," ~~OMB No. 158-R0170~~ USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

b) Additional contents. The owner or operator of a well listed in subsection (b)(1) of this Section must provide the information listed in subsection (b)(2) of this Section.

1) This Section applies to the following wells:

A) Corresponding 40 CFR 144.26(b)(1)(i) pertains to Class II injection wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;

B) Class IV injection wells;

C) The following types of Class V injection wells:

i) ~~Sand~~ A sand or other backfill ~~wells~~ well, 35 Ill. Adm. Code 730.105(e)(8);

ii) ~~Radioactive~~ A radioactive waste disposal ~~wells~~ well that ~~are~~ is not a Class I ~~wells~~ injection well, 35 Ill. Adm. Code 730.105(e)(11);

iii) ~~Geothermal~~ A geothermal energy recovery ~~wells~~ well, 35 Ill. Adm. Code 730.105(e)(12);

iv) ~~Brine~~ A brine return flow ~~wells~~ well, 35 Ill. Adm. Code 730.105(e)(14);

v) ~~Wells~~ A well used in an experimental ~~technologies~~ technology, 35 Ill. Adm. Code 730.105(e)(15);

vi) ~~Municipal and~~ A municipal or industrial disposal ~~wells~~ well other than a Class I injection well; and

vii) Any other Class V ~~wells~~ injection well, at the discretion of

the Agency.

2) The owner or operator of a well listed in subsection (b)(1) of this Section must provide a listing of all wells owned or operated setting forth the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

A) Corresponding 40 CFR 144.26(b)(2)(i) pertains to Class II wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;

B) ~~Location~~ The location of each well or project given by Township, Range, Section, and Quarter-Section;

C) ~~Date~~ The date of completion of each well;

D) Identification and depth of the ~~formation(s)~~ formations into which each well is injecting;

E) ~~Total~~ The total depth of each well;

F) ~~Casing~~ The casing and cementing record, tubing size, and depth of packer;

G) ~~Nature~~ The nature of the injected fluids;

H) ~~Average~~ The average and maximum injection pressure at the wellhead;

I) ~~Average~~ The average and maximum injection rate; and

J) ~~Date~~ The date of the last mechanical integrity tests, if any.

c) This subsection (c) corresponds with 40 CFR 144.26(c), a provision relating to USEPA notification to facilities upon authorization of the state's program. This statement maintains structural consistency with USEPA rules.

d) Deadlines. ~~Except as provided in subsection (e) of this Section, the~~ The owner or operator of an injection well must submit inventory information no later than March 3, 1985. The Agency need not require inventory information from any facility with RCRA interim status under 35 Ill. Adm. Code 703.

e) Deadlines for a Class V ~~Wells~~ injection well.

1) The owner or operator of a Class V injection well in which injection took place ~~within one year after the date of approval by USEPA of the Illinois UIC program~~ before March 3, 1985, and who failed to submit inventory information for the well within the time specified in subsection (d) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.

2) The owner or operator of a Class V injection well in which injection started later than March 3, 1985, must submit inventory information prior to May 2, 1995.

3) The owner or operator of a Class V injection well in which injection started after May 2, 1994 must submit inventory information prior to starting injection.

4) The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well within the time specified in subsection (e)(2) or (e)(3) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume, or that it may resume sooner.

BOARD NOTE: ~~Wells~~ A well that ~~were~~ was in existence as of March 3, 1984, ~~were~~ was required to submit inventory information by March 3, 1985. Since all wells other than a Class V ~~wells~~ injection well ~~are~~ is now either prohibited or required to file a permit ~~applications~~ application, the inventory requirement will apply only to a new Class V ~~wells~~ injection well.

BOARD NOTE: Derived from 40 CFR 144.26 ~~(1999), as amended at 64 Fed. Reg. 68566 (Dec. 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.149 Requiring other Information

a) In addition to the inventory requirements of Section 704.148, the Agency may require the owner or operator of any well authorized by rule under this Subpart C to submit information as deemed necessary by the Agency to determine whether a well may be endangering ~~an underground source of drinking water~~ a USDW in violation of Section 704.122.

b) Such information requirements may include, but are not limited to the following:

1) Performance of groundwater monitoring and the periodic submission of reports of such monitoring;

1) Performance of groundwater monitoring and the periodic submission of reports of such monitoring;

2) An analysis of injected fluids, including periodic submission of such analyses; and

2) An analysis of injected fluids, including periodic submission of such analyses; and

3) A description of the geologic strata through and into which injection is taking place.

3) A description of the geologic strata through and into which injection is taking place.

c) Any request for information under this Section ~~shall~~ must be made in writing, and include a brief statement of the reasons for requiring the information. An owner or operator ~~shall~~ must submit the information within the time ~~period(s)~~ periods provided in the notice.

~~c~~d) An owner or operator of an injection well authorized by rule under this Subpart C is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period specified by the Agency pursuant to subsection (c) ~~above~~ of this Section. An owner or operator of a well prohibited from injection under this Section ~~shall~~ may not resume injection, except under a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.

BOARD NOTE: Derived from 40 CFR 144.27 ~~(1993), as amended at 58 Fed. Reg. 63896 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

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

a) The owner or operator ~~shall~~ must comply with all applicable requirements of this Subpart C and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and ~~the Safe Drinking Water Act~~ SDWA and is grounds for enforcement

action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.

b) Twenty-four hour reporting. The owner or operator ~~shall~~ must report any noncompliance that may endanger health or the environment, including either of the events described in subsection (b)(1) or (b)(2) of this Section, subject to the conditions of subsection (b)(3) of this Section:

1) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; or

2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDW's~~; or~~.

3) Any information ~~shall~~ must be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission ~~shall~~ must also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission ~~shall~~ must contain a description of the noncompliance and its cause; the period of noncompliance~~;~~, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

c) Plugging and abandonment plan.

1) The owner or operator ~~shall~~ must prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.

2) Submission of plan.

A) The owner or operator ~~shall~~ must submit the plan on any forms prescribed by the Agency.

B) The owner or operator ~~shall~~ must submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i) of this Section (i.e., 45 days prior to plugging, unless shorter notice is approved).

C) The plan ~~shall~~ must include the following information:

i) The nature and quantity and material to be used in plugging;

ii) The location and extent (by depth) of the plugs;

iii) Any proposed test or measurement to be made;

iv) The amount, size, and location (by depth) of casing to be left in the well;

v) The method and location where casing is to be parted; and

vi) The estimated cost of plugging the well.

D) After a cessation of operations of two years, the owner or operator ~~shall~~ must plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:

i) ~~Provides~~ It provides written notice to the Agency; and

ii) ~~Describe~~ It describes actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDW's during the period of temporary abandonment. These actions and procedures ~~shall~~ must include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the ~~Environmental Protection~~ Act [415 ILCS 5/Title IX].

E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of ~~subsection~~ subsections (c)(2)(D)(i) and (c)(2)(D)(ii)) of this Section ~~shall~~ must notify the Agency in writing prior to resuming operation of the well.

d) Financial responsibility.

1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:

A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~above~~ of this Section and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) ~~below~~ of this Section;

B) The well has been converted in compliance with ~~the requirements of~~ subsection (j) ~~below~~ of this Section; or

C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator ~~shall~~ must show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.

2) The owner or operator was to have submitted such evidence no later than March 3, 1985. Where the ownership ~~of~~ or operational control of the well was transferred later than March 3, 1985, the transferee ~~shall~~ must submit such evidence no later than the date specified in the notice required pursuant to subsection (l)(2) ~~below~~ of this Section.

3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.

4) The owner or operator of a well injecting hazardous waste ~~shall~~ must comply with the financial responsibility requirements of ~~704.~~Subpart G of this Part.

5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Agency if the guarantor is named as debtor in any such proceeding.

6) In the event of commencement of a proceeding specified in subsection (d)(5) ~~above~~ of this Section, an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility ~~under~~ pursuant to this Section ~~shall~~ will be deemed to be in violation of this subsection (d) until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties ~~shall~~ must be prohibited from injecting into the well until such

alternative financial assurance is provided.

e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells). Those wells are regulated by the Illinois Department of Mines and Minerals, rather than by the Board and the Agency. This statement maintains structural consistency with ~~U.S. EPA~~ USEPA rules.

f) Operating requirements.

1) No person ~~shall~~ must cause or allow injection between the outermost casing protecting ~~underground sources of drinking water~~ USDWs and the well bore.

2) Maintenance of mechanical integrity.

A) The owner or operator of a Class I or Class III injection well authorized by rule under this Subpart C ~~shall~~ must establish and maintain mechanical integrity, as defined in 35 Ill. Adm. Code 730.106, until either of the following has occurred:

i) The well is properly plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~above~~ of this Section and 35 Ill. Adm. Code 730.110 and a plugging and abandonment report is submitted pursuant to subsection (k) ~~below,~~; or

ii) The well is converted in compliance with subsection (j) ~~below~~ of this Section.

B) The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations ~~shall~~ must be made.

3) Cessation upon Lack of Mechanical Integrity.

A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency ~~shall~~ must give written notice of its determination to the owner or operator.

B) Unless the Agency requires immediate cessation, the owner or operator ~~shall~~ must cease injection into the well within 48 hours of receipt of the Agency's determination.

C) The Agency may allow plugging of the well in accordance with ~~the~~

~~requirements of~~ 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.

D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.

4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.

5) For a Class I ~~wells~~ injection well, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator ~~shall~~ must fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer ~~shall~~ must fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For any other Class I ~~wells~~ injection well, the owner or operator ~~shall~~ must insure that the alternative completion method will reliably provide a comparable level of protection of ~~underground sources of drinking water~~ USDWs.

6) Injection pressure for Class I and III injection wells.

A) Except during stimulation, the owner or operator ~~shall~~ must not exceed an injection pressure at the wellhead that ~~shall~~ must be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and

B) The owner or operator ~~shall~~ must not inject at a pressure that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into ~~an underground source of drinking water~~ a USDW.

g) Monitoring Requirements. The owner or operator ~~shall~~ must perform the monitoring as described in this subsection (g). Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited in ~~Table I~~ tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic

Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) (1993) or in ~~Appendix~~ appendix III of 40 CFR 261 (Chemical Analysis Test Methods) (1992), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods that have been approved by the Agency.

1) The owner or operator of a Class I injection well ~~shall~~ must undertake the following actions:

   A) ~~Analyze~~ It must analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;

   B) ~~Install~~ It must install and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing; and

   C) ~~Install~~ It must install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the ~~underground sources of drinking water~~ USDWs. The type, number, and location of the wells; the parameters to be measured; and the frequency of monitoring must be approved by the Agency.

2) This subsection (g)(2) corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with ~~U.S. EPA~~ USEPA rules.

3) The owner or operator of a Class III injection well ~~shall~~ must undertake the following actions:

   A) ~~Provide~~ It must provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.

      i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code ~~120~~ 130.

      ii) If the information is proprietary the owner or operator may

in lieu of the ranges in concentrations choose to submit maximum concentrations that ~~shall~~ must not be exceeded.

iii) In such a case the owner or operator ~~shall~~ must retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation;

B) ~~Monitor~~ It must monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;

C) ~~Monitor~~ It must monitor the fluid level in the injection zone semi-monthly, where appropriate; and

D) All Class III injection wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.

h) Reporting requirements. The owner or operator ~~shall~~ must submit reports to the Agency as follows:

1) For a Class I ~~wells~~ injection well, quarterly reports on all of the following:

A) The physical, chemical, and other relevant characteristics of the injection fluids;

B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;

C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C) of this Section;

D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and

E) Any well work over performed during the reported quarter.

2) This subsection (h)(2) corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois

Department of Mines and Minerals, and not by the Board. This statement maintains structural consistency with ~~U.S. EPA~~ USEPA rules.

3) For a Class ~~I wells~~ III injection well, all of the following:

A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C) of this Section;

B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and

C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.

i) Retention of records. The owner or operator ~~shall~~ must retain records of all monitoring information, including the following:

1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and

2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator ~~shall~~ must retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.

j) Notice of abandonment. The owner or operator ~~shall~~ must notify the Agency at least 45 days before conversion or abandonment of the well.

k) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator ~~shall~~ must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report ~~shall~~ must be submitted within 60 days. The report ~~shall~~ must be certified as accurate by the person who performed the plugging operation. Such report ~~shall~~ must consist of either:

1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency; or

2) Where actual plugging differed from the plan previously submitted, an updated version of the plan, on any form supplied by the Agency, specifying the different procedures used.

l) Change of ownership.

1) The owner or operator ~~shall~~ must notify the Agency of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.

2) The notice ~~shall~~ must include a written agreement between the transferor and the transferee containing a specific date when the financial responsibility demonstration of subsection (d) ~~above~~ of this Section will be met by the transferee.

3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) ~~above~~ of this Section.

m) Requirements for a Class I ~~Hazardous Waste Wells~~ hazardous waste injection well. The owner or operator of any Class I injection well injecting hazardous waste ~~shall~~ must comply with Section 704.203. In addition the owner or operator ~~shall~~ must properly dispose of, or decontaminate by removing all hazardous waste residues, all injection well equipment.

BOARD NOTE: Derived from 40 CFR 144.28 ~~(1993), as amended at 58 Fed. Reg. 63897 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.151 RCRA Interim Status for Class I Injection Wells

The minimum standards ~~which~~ that define acceptable injection of hazardous waste during the period of interim status under 35 Ill. Adm. Code 703 are set out in the applicable provisions of this Part, 35 Ill. Adm. Code 725.530 and 730. The issuance of a UIC permit does not automatically terminate interim status. A Class I injection well's interim status does, however, automatically terminate upon issuance ~~to that well~~ of a RCRA permit to that well, or upon the well's receiving a RCRA permit by rule under 35 Ill. Adm. Code 703.141. Thus, until a Class I injection well injecting hazardous waste receives a RCRA permit or RCRA permit by rule, the well's interim status requirements are the applicable requirements imposed pursuant to this Part and 35 Ill. Adm. Code 725 and 730, including any requirements imposed in the UIC permit.

~~(~~BOARD NOTE: ~~See~~ Derived from 40 CFR 144.1(h)~~, as adopted at 52 Fed. Reg. 45797, December 1, 1987)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATION FOR PERMIT

Section 704.161 Application for Permit; Authorization by Permit

a) Permit application. Unless an underground injection well is authorized by rule under ~~704.~~Subpart C of this Part, all injection activities, including construction of an injection well, are prohibited until the owner or operator is authorized by permit. An owner or operator of a well currently authorized by rule must apply for a permit under this Section unless the well authorization was for the life of the well or project. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for application, issuance, and administration of emergency permits are found exclusively in Section 704.163. A RCRA permit applying the standards of Subpart C of 35 Ill. Adm. Code 724~~.Subpart C~~ will constitute a UIC permit for hazardous waste injection wells for which the technical standards in 35 Ill. Adm. Code 730 are not generally appropriate.

BOARD NOTE: ~~Derived~~ Subsection (a) of this Section is derived from 40 CFR 144.31(a) ~~(1993), as amended at 58 Fed. Reg. 63897 (Dec. 3, 1993)~~ (2005).

b) Time to apply. Any person who performs or proposes an underground injection for which a permit ~~is~~ was or will be required ~~shall~~ must submit an application to the Agency as follows:

1) For existing wells, the application was to have been filed before the applicable of the following deadlines:

A) Within 180 days after the Agency notifies such person that an application is required; ~~or~~

B) If the waste being injected into the well is a hazardous waste accompanied by a manifest or delivery document, ~~by~~ before August 1, 1984; or

C) Except as otherwise provided in subsections (b)(1)(A) and (b)(1)(B) of this Section, ~~by~~ before March 3, 1986.

2) For new injection wells, except new wells in projects authorized under Section 704.141(b) or covered by an existing area permit under Section 704.162(c), the application must be filed a reasonable time before construction is expected to begin.

BOARD NOTE: ~~Derived~~ Subsection (b) of this Section is derived from 40 CFR 144.31(c) ~~(1993), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

c) Contents of UIC application. The applicant ~~shall~~ must demonstrate that the underground injection will not endanger drinking water sources. The form and content of the UIC permit application may be prescribed by the Agency, including the materials required by 35 Ill. Adm. Code 702.123.

d) Information requirements for a Class I hazardous waste injection ~~wells~~ well.

1) The following information is required for each active Class I hazardous waste injection well at a facility seeking a UIC permit:

A) ~~Dates~~ The dates the well was operated~~.~~; and

B) Specification of all wastes that have been injected into the well, if available.

2) The owner or operator of any facility containing one or more active hazardous waste injection wells must submit all available information pertaining to any release of hazardous waste or constituents from any active hazardous waste injection well at the facility.

3) The owner or operator of any facility containing one or more active Class I hazardous waste injection wells must conduct such preliminary site investigations as are necessary to determine whether a release is occurring, has occurred, or is likely to have occurred.

BOARD NOTE: ~~Derived~~ Subsection (d) of this Section is derived from 40 CFR 144.31(g) ~~(1993)~~ (2005).

e) In addition to the materials required by 35 Ill. Adm. Code 702.123, the applicant must provide the following:

1) ~~The applicant shall~~ It must identify and submit on a list with the permit application the names and addresses for all owners of record of land within one-quarter mile (401 meters) of the facility boundary. This requirement may be waived by the Agency where the site is located in a populous area such that the requirement would be impracticable~~.~~; and

2) ~~The applicant shall~~ It must submit a plugging and abandonment plan that meets the requirements of 35 Ill. Adm. Code 730.110.

BOARD NOTE: ~~Derived~~ Subsection (e) of this Section is derived from 40 CFR 144.31(e)(9) and (e)(10) ~~(1993), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.162 Area Permits

a) The Agency may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells for which the followig are true:

1) ~~Described~~ They are described and identified by location in permit ~~application(s)~~ applications, if they are existing wells, except that the Agency may accept a single description of multiple wells with substantially the same characteristics; ~~and~~

2) ~~Within~~ They are within the same well field, facility site, reservoir, project, or similar unit in the same ~~State~~ state; ~~and~~

3) ~~Operated~~ They are operated by a single owner or operator; and

4) ~~Used~~ They are used to inject other than hazardous waste.

b) Area permits ~~shall~~ must specify both of the following:

1) The area within which underground injections are authorized~~,~~; and

2) The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.

c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon new injection wells within the permit area provided the following conditions are fulfilled:

1) The permittee notifies the Agency at such time as the permit requires;

2) The additional well satisfies the criteria in subsection (a) ~~above~~ of this Section and meets the requirements specified in the permit under subsection (b) ~~above~~ of this Section; and

3) The cumulative effects of drilling and operation of additional injection wells are considered by the Agency during evaluation of the area permit application and are acceptable to the Agency.

d) If the Agency determines that any well constructed pursuant to subsection (c) ~~above~~ of this Section does not satisfy ~~any of~~ the requirements of subsections (c)(1) and (c)(2) ~~above~~ of this Section, the Agency may modify the permit under 35 Ill. Adm. Code 702.183 through 702.185, seek revocation under 35 Ill. Adm. Code 702.186, or take enforcement action. If the Agency determines that cumulative effects are unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183 through 702.185.

BOARD NOTE: Derived from 40 CFR 144.33 ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.163 Emergency Permits

a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, the Agency may temporarily permit a specific underground injection if an imminent and substantial ~~endangerment~~ threat to the health of persons will result unless a temporary emergency permit is granted.

b) Requirements for issuance.

1) Any temporary permit under subsection (a) of this Section ~~shall~~ must be for no longer term than required to prevent the ~~hazard~~ threat.

2) Notice of any temporary permit under this subsection (b) ~~shall~~ must be published in accordance with 35 Ill. Adm. Code 705.163 within 10 days ~~of~~ after the issuance of the permit.

3) The temporary permit under this section may be either oral or written. If oral, it must be followed within ~~5~~ five calendar days by a written temporary emergency permit.

4) The Agency ~~shall~~ must condition the temporary permit in any manner it determines is necessary to ensure that the injection will not result in the movement of fluids into ~~an underground source of drinking water~~ a USDW.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.34 (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

The following conditions apply to all UIC permits, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, ~~apply to all UIC permits~~ and ~~shall~~ these conditions must be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

a) In addition to 35 Ill. Adm. Code 702.141 (duty to comply): the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section

704.163.

BOARD NOTE: ~~Derived~~ Subsection (a) of this Section is derived from 40 CFR 144.51(a) ~~(1993)~~ (2005).

b) In addition to 35 Ill. Adm. Code 702.150(b) (monitoring and records): the permittee ~~shall~~ must retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188 or under Subpart G of 35 Ill. Adm. Code 730~~.Subpart G~~, as appropriate. The owner or operator ~~shall~~ must continue to retain the records after the ~~three year~~ three-year retention period, unless the owner or operator delivers the records to the Agency or obtains written approval from the Agency to discard the records.

BOARD NOTE: ~~Derived~~ Subsection (b) of this Section is derived from 40 CFR 144.51(j)(2)(ii) ~~(1993)~~ (2005).

c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), the following: except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and both of the following must occur:

1) The permittee ~~has~~ must have submitted notice of completion of construction to the Agency; and

2) Inspection ~~Review~~ review must have occurred, as follows:

A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c)(1) of this Section, in which case prior inspection or review is waived, and the permittee may commence injection. The Agency ~~shall~~ must include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: ~~Derived~~ Subsection (c) of this Section is derived from 40 CFR 144.51(m) ~~(1993)~~ (2005).

d) Reporting ~~Noncompliance~~ noncompliance.

1) Twenty-four hour reporting. The permittee ~~shall~~ must report any noncompliance that may endanger health or the environment, including the following:

A) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW~~.~~; and

B) Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs.

2) Any information ~~shall~~ must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission ~~shall~~ must also be provided within ~~5~~ five days ~~of~~ after the time the permittee becomes aware of the circumstances. The written submission ~~shall~~ must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates, times, and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: ~~Derived~~ Subsection (d) of this Section is derived from 40 CFR 144.51(l)(6) ~~(1993)~~ (2005).

e) The permittee ~~shall~~ must notify the Agency at such times as the permit requires before conversion or abandonment of the well or, in the case of area permits, before closure of the project.

BOARD NOTE: ~~Derived~~ Subsection (e) of this Section is derived from 40 CFR 144.51(n) ~~(1993)~~ (2005).

f) A Class I or Class III permit ~~shall~~ must include, and a Class V permit may include, conditions that meet the applicable requirements of 35 Ill. Adm. Code 730.110 to insure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of 35 Ill. Adm. Code 730.110, the Agency ~~shall~~ must incorporate it into the permit as a permit condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate, the Agency may require the applicant to revise the plan, prescribe conditions meeting the requirements of this subsection (f), or deny the permit. For purposes of this subsection (f), temporary or intermittent cessation of injection operations is not abandonment.

BOARD NOTE: ~~Derived~~ Subsection (f) of this Section is derived from 40 CFR 144.51(o)~~, as added at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

g) Plugging and abandonment report. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator ~~shall~~ must submit a report to the Agency. If the quarterly report is due less than 15

days before completion of plugging, then the report ~~shall~~ must be submitted within 60 days. The report ~~shall~~ must be certified as accurate by the person who performed the plugging operation. Such report ~~shall~~ must consist of either of the following:

1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency;

2) Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Agency specifying the differences.

BOARD NOTE: ~~Derived~~ Subsection (g) of this Section is derived from 40 CFR 144.51(p) ~~(1993), as renumbered at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

h) Duty to establish and maintain mechanical integrity.

1) The owner or operator of a Class I or Class III injection well permitted under this Part and 35 Ill. Adm. Code 702 ~~shall~~ must establish prior to commencing injection or on a schedule determined by the Agency, and thereafter mechanical integrity, as defined in 35 Ill. Adm. Code 730.108. The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.

2) When the Agency determines that a Class I or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, it ~~shall~~ must give written notice of its determination to the owner or operator. Unless the Agency requires immediate cessation, the owner or operator ~~shall~~ must cease injection into the well within 48 hours of receipt of the Agency determination. The Agency may allow plugging of the well pursuant to ~~the requirements of~~ 35 Ill. Adm. Code 730.110 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.

3) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection, if the owner or operator has made a satisfactory showing that there is no movement of fluid into or between USDWs.

BOARD NOTE: ~~Derived~~ Subsection (h) of this Section is derived from 40 CFR

144.51(q)~~, as added at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.182 Establishing UIC Permit Conditions

In addition to the conditions established under 35 Ill. Adm. Code 702.160 and Section 704.181, each UIC permit ~~shall~~ must include conditions meeting the requirements of the following ~~sections~~ Sections, when applicable.

BOARD NOTE: Derived from 40 CFR 144.52(a) preamble ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.183 Construction Requirements

Existing wells ~~shall~~ must achieve compliance with construction requirements as set forth in 35 Ill. Adm. Code 730 according to a compliance schedule established as a permit condition. The owner or operator of a proposed new injection well ~~shall~~ must submit plans for testing, drilling, and construction as part of the permit application. Except as authorized by an area permit, no construction may commence until a permit has been issued containing construction requirements (see Section 704.121). New wells ~~shall~~ must be in compliance with these requirements prior to commencing injection operations. Changes in construction plans during construction may be approved by the Agency as minor modifications. (See 35 Ill. Adm. Code 702.187.) No such changes may be physically incorporated into construction of the well prior to approval of the modification by the Agency.

BOARD NOTE: Derived from 40 CFR 144.52(a)(1) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.184 Corrective Action

UIC permits ~~shall~~ must require by condition corrective action as set forth in Section 704.193 and 35 Ill. Adm. Code 730.107.

BOARD NOTE: Derived from 40 CFR 144.52(a)(2) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.185 Operation Requirements.

The permit ~~shall~~ must establish any maximum injection volumes and pressures necessary to assure that fractures are not initiated in the confining zone, that injected fluids do not migrate into any ~~underground source of drinking water~~ USDW, that formation fluids are not displaced into any ~~underground source of drinking water~~ USDW, and to assure compliance with the 35 Ill.

Adm. Code 730 operating requirements.

BOARD NOTE: Derived from 40 CFR 144.52(a)(3) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.186 Hazardous Waste Requirements

UIC permits ~~shall~~ must require by condition requirements for wells managing hazardous waste, as set forth in ~~704.~~Subpart F of this Part.

BOARD NOTE: Derived from 40 CFR 144.52(a)(4) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.187 Monitoring and Reporting

UIC permits ~~shall~~ must require by condition monitoring and reporting requirements, as set forth in 35 Ill. Adm. Code 730. The permittee ~~shall~~ must be required to identify types of tests and methods used to generate the monitoring data. Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited and described in ~~Table I~~ tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures), IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 ~~(1985)~~ (Identification of Test Procedures), each incorporated by reference in 35 Ill. Adm. Code 720.111(b); ~~or~~ as stated in ~~Appendix III of 40 CFR 261 (1985)~~ Appendix C to 35 Ill. Adm. Code 261; or, in certain circumstances, by other methods ~~which~~ that have been approved in writing by the Agency.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.52(a)(5) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.188 Plugging and Abandonment

Any permit ~~shall~~ must include a requirement that, after a cessation of operations of two years, the owner or operator ~~shall~~ must plug and abandon the well in accordance with the plan unless ~~he~~ it does the following:

a) ~~Provides~~ It provides notice to the Agency; and

b) ~~Describes~~ It describes actions or procedures satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger USDWs during the period of temporary abandonment. These actions and procedures ~~shall~~ must include compliance with the technical requirements applicable to active injection wells, unless waived by the Agency.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.52(a)(6) (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.189 Financial Responsibility

a) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Agency until one of the following occurs:

1) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Section 704.181(f) and 35 Ill. Adm. Code 730.110, and the permittee has submitted a plugging and abandonment report pursuant to Section 704.181(g);

2) The well has been converted in compliance with ~~the requirements of~~ Section 704.181(e); or

3) The transferor of a permit has received notice from the Agency that the owner or operator receiving transfer of the permit (the new permittee) has demonstrated financial responsibility for the well.

b) The permittee must show evidence of financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as financial statements or other materials acceptable to the Agency. The Agency may on a periodic basis require the holder of a life-time permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary.

c) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of ~~704.~~Subpart G of this Part.

BOARD NOTE: Derived from 40 CFR 144.52(a)(7) ~~(1993), as amended at 58 Fed. Reg. 63898 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.190 Mechanical Integrity

A permit for any Class I or Class III injection well or injection project that lacks mechanical integrity ~~shall~~ must include, or for any Class V injection well may include, a condition prohibiting injection operations until the permittee shows to the satisfaction of the Agency under 35 Ill. Adm. Code 730.108 that the well has mechanical integrity.

BOARD NOTE: Derived from 40 CFR 144.52(a)(8) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.191 Additional Conditions

The Agency ~~shall~~ must impose on a case-by-case basis such additional conditions as are necessary to prevent the migration of fluids into ~~underground sources of drinking water~~ a USDW.

BOARD NOTE: Derived from 40 CFR 144.52(a)(9) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.192 Waiver of Requirements by Agency

a) When injection does not occur into, through, or above ~~an underground source of drinking water~~ a USDW, the Agency may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into ~~an underground source of drinking water~~ a USDW.

b) When injection occurs through or above ~~an underground source of drinking water~~ a USDW, but the radius of endangering influence when computed under 35 Ill. Adm. Code 730.106(a) is smaller or equal to the radius of the well, the Agency may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into ~~an underground source of drinking water~~ a USDW.

c) When reducing requirements under subsection (a) or (b) ~~above~~ of this Section, the Agency ~~shall~~ must prepare a fact sheet under 35 Ill. Adm. Code 705.143 explaining the reasons for the action.

BOARD NOTE: Derived from 40 CFR 144.16 ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.193 Corrective Action

a) Coverage. ~~Applicants~~ An applicant for a Class I or Class III injection well ~~permits shall~~ permit must identify the location of all known wells within the injection well's area of review that penetrate the injection zone. For such wells

that are improperly sealed, completed, or abandoned, the applicant ~~shall~~ must also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into ~~underground sources of drinking water~~ USDWs ("corrective action"). Where the plan is adequate, the Agency ~~shall~~ must incorporate it into the permit as a condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate (based on the factors in 35 Ill. Adm. Code 730.107), the Agency ~~shall~~ must require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection (b) ~~below~~ of this Section, or deny the application.

b) Requirements.

1) Existing ~~Injection Wells~~ injection wells. Any permit issued for an existing injection well requiring corrective action ~~shall~~ must include a compliance schedule requiring any corrective action accepted or prescribed under subsection (a) ~~above~~ of this Section to be completed as soon as possible.

2) New injection wells. No permit for a new injection well may authorize injection until all required corrective action has been taken.

3) Injection pressure limitation. The Agency may require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation ~~shall~~ must satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule ~~an~~ and last until all other required corrective action has been taken.

4) Class III injection wells only. When setting corrective action requirements the Agency ~~shall~~ must consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs and the corresponding changes in potentiometric ~~surface(s)~~ surfaces and flow ~~direction(s)~~ directions rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in 35 Ill. Adm. Code 730.133(b) ~~shall~~ must be designed to verify the validity of such determinations.

BOARD NOTE: Derived from 40 CFR 144.55 ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.194 Maintenance and Submission of Records

The Agency ~~shall~~ must include, as a condition to any UIC permit, a requirement that the owner or operator of the injection well ~~shall~~ must establish and maintain such records, make such

reports, conduct such monitoring, and provide such other information as the Agency deems necessary to determine whether the owner or operator has acted or is acting in compliance with the Act and Board regulations.

BOARD NOTE: Derived from 40 CFR 144.17~~, as added at 58 Fed. Reg. 63895 (Dec. 3, 1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS WASTE

Section 704.201 Applicability

~~The regulations in this Part apply~~ This Subpart F applies to ~~all generators~~ a generator of hazardous waste~~,~~ and to the ~~owners~~ owner or ~~operators~~ operator of ~~all~~ any hazardous waste management ~~facilities,~~ facility ~~using~~ that uses any class of well to inject hazardous wastes accompanied by a manifest. (See also Section 704.124.)

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.14(a) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.202 Authorization

The owner or operator of any well that is used to inject hazardous wastes accompanied by a manifest or delivery document was required to apply for authorization to inject, as specified in Section 704.161(b)(1)(B), ~~by~~ before August 2, 1984.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.14(b) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.203 Requirements

In addition to requiring compliance with the applicable requirements of this Part and 35 Ill. Adm. Code 730, the owner or operator of any facility described in Section 704.202 ~~shall~~ must comply with the following requirements:

a) Notification. The owner or operator ~~shall~~ must comply with the notification requirements of ~~Section~~ section 3010 of the Resource Conservation and Recovery Act (42 ~~U.S.C.~~ USC 6901 et seq.).

b) Identification number. The owner or operator ~~shall~~ must comply with ~~the requirements of~~ 35 Ill. Adm. Code 724.111~~ and 40 CFR 264.11 (1992)~~.

c) Manifest system. The owner or operator ~~shall~~ must comply with the applicable recordkeeping and reporting requirements for manifested wastes in 35 Ill. Adm. Code 724.171 ~~and 40 CFR 264.71 (1992)~~.

d) Manifest discrepancies. The owner or operator ~~shall~~ must comply with 35 Ill. Adm. Code 724.172 ~~and 40 CFR 264.72 (1992)~~.

e) Operating record. The owner or operator ~~shall~~ must comply with 35 Ill. Adm. Code 724.173(a), (b)(1), and (b)(2) ~~and 40 CFR 264.73(a), (b)(1) and (b)(2) (1992), as amended at 57 Fed. Reg. 3487 (Jan. 29, 1992)~~.

f) Annual report. The owner or operator ~~shall~~ must comply with 35 Ill. Adm. Code 724.175 ~~and 40 CFR 264.75 (1992)~~.

g) Unmanifested waste report. The owner or operator ~~shall~~ must comply with 35 Ill. Adm. Code 724.176 ~~and 40 CFR 264.76 (1992)~~.

h) Personnel training. The owner or operator ~~shall~~ must comply with the applicable personnel training requirements of 35 Ill. Adm. Code 724.116 ~~and 40 CFR 264.16 (1992)~~.

i) Certification of closure. When abandonment is completed, the owner or operator must submit to the Agency certification by the owner or operator and certification by an independent registered professional engineer that the facility has been closed in accordance with the specifications in Section 704.188.

BOARD NOTE: Derived from 40 CFR 144.14(c) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I HAZARDOUS WASTE INJECTION WELLS

Section 704.210 Applicability

~~The requirements of~~ Sections 704.212, 704.213, and 704.240 apply to ~~owners and operators~~ the owner or operator of ~~all~~ an existing ~~and~~ or new Class I Hazardous waste injection ~~wells~~ well, except as provided otherwise in this Subpart G.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.60 (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.211 Definitions

a) "Plugging and abandonment plan" or "plan" means the plan for plugging and

abandonment prepared in accordance with ~~the requirements of~~ Sections 704.150 and 704.181(f).

b) "Current plugging and abandonment cost estimate" or "current cost estimate" means the most recent of the estimates prepared in accordance with Sections 704.212(a), (b)**,** and (c).

c) "Parent corporation" means a corporation ~~which~~ that directly owns at least 50 percent of the voting stock of the corporation ~~which~~ that is the injection well owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

d) The following terms are used in the specifications for the financial test for plugging and abandonment. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

"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~~ that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

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

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

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

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

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

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

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.61 (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.212 Cost Estimate for Plugging and Abandonment

a) The owner or operator must prepare a written estimate, in current dollars, of the cost of plugging the injection well in accordance with the plugging and abandonment plan, as specified in ~~Section~~ Sections 704.150 and 704.181(f). The cost estimate must equal the cost of plugging and abandonment at the point in the facility's operating life when the extent and manner of its operation would making plugging and abandonment the most expensive, as indicated by its plan.

b) The owner or operator must adjust the cost estimate for inflation within 30 days after each anniversary of the date on which the first cost estimate was prepared. The adjustment must be made as specified in subsections (b)(1) and (b)(2) of this Section, using an inflation factor derived from the annual ~~Oil and Gas Field Equipment Cost Index~~ update to "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]" published by the U.S. Department of Treasury. The inflation factor is the result of dividing the latest published annual Index by the Index for the previous years.

1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

BOARD NOTE: Corresponding 40 CFR 144.62(b) cites "Oil and Gas Field Equipment Cost Index" without attribution of its source. The Board has located a publication entitled "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]." It is assembled by the U.S. Department of Energy, Energy Information Administration. It is available only on the Internet at www.eia.doe.gov. The Board replaced the federally cited reference with this document. The full link for the document (in March 2006) is as follows: http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html.

c) The owner or operator must review the cost estimate whenever a change in the plan increases the cost of plugging and abandonment. The revised cost estimate must be adjusted for inflation as specified in subsection (b) of this Section.

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

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.62 (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.213 Financial Assurance for Plugging and Abandonment

An owner or operator of each facility must establish ~~"~~financial assurance~~"~~ for the plugging and abandonment of each existing and new Class I hazardous waste injection well. The owner or operator must choose one of the following financial assurance mechanisms:

a) ~~Trust~~ A trust fund (Section 704.214);

b) ~~Surety~~ A surety bond guaranteeing payment (Section 704.215);

c) ~~Surety~~ A surety bond guaranteeing performance (Section 704.216);

d) ~~Letter~~ A letter of credit (Section 704.217);

e) Insurance (Section 704.218); or

f) ~~Financial~~ The financial test and corporate guarantee (Section 704.219);

BOARD NOTE: Derived from 40 CFR 144.63 preamble ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.214 Trust Fund

a) An owner or operator may satisfy the financial assurance requirement by establishing a trust fund ~~which~~ that conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a Class I injection well injecting hazardous waste must submit the original, signed duplicate of the trust agreement to the Agency with the permit application or for approval to operate under rule. The trustee must be an entity ~~which~~ that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

b) The wording of the trust agreement must be as specified in Section 704.240, and the trust agreement must be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.

c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection

well as estimated in the plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period.". The payments into the trust fund must be made as follows:

1) For a new well, the first payment must be made before the initial injection of hazardous waste. A The owner or operator must submit a receipt to the Agency from the trustee for this payment must be submitted by the owner or operator to the Agency before this the initial injection of hazardous waste. The first payment must be at least equal to the current cost estimate, except as provided in Section 704.240, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

Next payment = (PE - CV)/Y

where PE is the current cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

$$\text{Next Payment} = \frac{\text{PE} - \text{CV}}{\text{YR}}$$

Where:

PE is the current cost estimate

CV is the current value of the trust fund

Y is the number of years remaining in the pay-in period.

2) If an owner or operator establishes a trust fund as specified in this Section, and the value of that trust fund is less than the current cost estimate when a permit is issued for the injection well, the amount of current cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (c) of this Section. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to this Part. The amount of each payment must be determined by this formula:

Next payment = (PE - CV)/Y

where PE is the current cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

$$\text{Next Payment} = \frac{PE - CV}{YR}$$

Where:

PE is the current cost estimate

CV is the current value of the trust fund

Y is the number of years remaining in the pay-in period.

d) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (c) of this Section.

e) If the owner or operator establishes a trust fund after having used one or more alternate financial assurance mechanisms, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this Section.

f) After the pay-in period is completed, whenever the current cost estimate changes the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, ~~orobtain~~ or obtain other financial assurance to cover the difference.

g) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate.

h) If an owner or operator substitutes other financial assurance for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate covered by the trust fund.

i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h) of this Section, the Agency ~~will~~ must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

j) After beginning final plugging and abandonment, an owner and operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency ~~will~~ must determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, ~~will~~ it must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222 that the owner or operator is no longer required to maintain financial assurance.

k) The Agency ~~will~~ must agree to termination of the trust when either of the following occurs:

1) ~~An~~ The owner or operator substitutes alternate financial assurance; or

2) The Agency releases the owner or operator in accordance with Section 704.222.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(a) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.215 Surety Bond Guaranteeing Payment

a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond ~~which~~ that conforms to the requirements of this Section and submitting the bond to the Agency with the application for a permit or for approval to operate under rule. The bond must be effective before the initial injection of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

b) The wording of the surety bond must be as specified in Section 704.240.

c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under

the terms of the bond ~~will~~ must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that the following limitations apply:

1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

2) Until the standby trust fund is funded pursuant to ~~the requirements of~~ this Section, the following are not required:

A) Payments into the trust fund as specified in Section 704.214;

B) Updating of Schedule A of the trust agreement to show current cost estimates;

C) Annual valuations as required by the trust agreement; and

D) Notices of non-payment as required by the trust agreement.

d) The bond must guarantee that the owner or operator will fulfill the following requirements:

1) ~~Fund~~ It will fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of plugging and abandonment of the injection well; ~~or~~

2) ~~Fund~~ It will fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin plugging and abandonment is issued by the Board or a U.S. district court or other court of competent jurisdiction; or

3) ~~Provide~~ It will provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

f) The penal sum of the bond must be in amount at least equal to the current cost estimate, except as provided in Section 704.220.

g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost

estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.

h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.

i) The owner or operator may cancel the bond if the Agency has given prior written consent based on receipt of evidence of alternate financial assurance.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(b) (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.216 Surety Bond Guaranteeing Performance

a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond ~~which~~ that conforms to the requirements of this Section and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency with the permit application or for approval to operate under rule. The bond must be effective before injection of hazardous waste is started. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

b) The wording of the surety bond must be as specified in Section 704.240.

c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond ~~will~~ must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in Section 704.214, except that the following limitations apply:

1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

2) Until the standby trust fund is funded pursuant to ~~the requirements of~~ this Section, the following are not required:

A) Payments into the trust fund as specified in Section 704.214;

B) Updating of Schedule A of the trust agreement to show current cost estimates;

C) Annual valuations as required by the trust agreement; and

D) Notices of non-payment as required by the trust agreement.

d) The bond must guarantee that the owner or operator will fulfill the following requirements:

1) ~~Perform~~ It will perform plugging and abandonment in accordance with the plan and other requirements of the permit for the injection well whenever required to do so; or

2) ~~Provide~~ It will provide alternate financial assurance, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plan and other permit requirements when required to do so, under terms of the bond the surety ~~will~~ must perform plugging and abandonment as guaranteed by the bond or ~~will~~ must deposit the amount of the penal sum into the standby trust fund.

f) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

g) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.

h) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency.

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

i) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency ~~will~~ must provide such written content when either of the following occurs:

1) An owner or operator substitute alternate financial assurance; or~~;~~

2) The Agency releases the owner or operator in accordance with Section 704.222.

j) The surety will not be liable for deficiencies in the performance of plugging and abandonment by the owner or operator after the Agency releases the owner or operator in accordance with Section 704.222.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(c) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.217 Letter of Credit

a) An owner or operator may satisfy the financial assurance requirement by obtaining an irrevocable standby letter of credit ~~which~~ that conforms to ~~the requirements of~~ this Section and submitting the letter to the Agency. An owner or operator of an injection well must submit the letter of credit to the Agency during submission of the permit application or for approval to operate under rule. The letter of credit must be effective before initial injection of hazardous waste. The issuing institution must be entity ~~which~~ that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a ~~Federal~~ federal or State agency.

b) The wording of the letter of credit ~~but~~ must be as specified in Section 704.240.

c) An owner or operator who uses a letter of credit to satisfy the financial assurance requirement must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency ~~will~~ must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in Section 704.214, except that the following limitations apply:

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

2) Unless the standby trust fund is funded pursuant to ~~the requirements of~~ this Section, the following are not required:

A) Payments into the trust fund as specified in Section 704.214;

B) Updating of Schedule A of the trust agreement to show current cost estimates;

C) Annual valuations as required by the trust agreement; and

D) Notices of non-payment as required by the trust agreement.

d) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution and date, and providing the following information: the ~~EPA Identification Number~~ USEPA identification number, name and address of the facility, and the amount of funds assured for plugging and abandonment of the well by the letter of credit.

e) The letter of credit must be irrevocable and issued for a period of at least ~~1~~ one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least ~~1~~ one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

f) The letter of credit must be issued in an amount at least equal to the current cost estimate, except as provided in Section 704.220.

g) Whenever the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the letter of credit to be increased so that it at least equals the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the amount of the letter of credit may be reduced to the amount of the current cost estimate following written approval by the Agency.

h) Following a determination that the owner or operator has failed to perform final plugging and abandonment in accordance with the plan and other permit requirements when required to do so, the Agency may draw on the letter of credit.

i) If the owner or operator does not establish alternate financial assurance and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing

institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency ~~will~~ must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency ~~will~~ must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance and obtain written approval of such assurance from the Agency.

j) The Agency ~~will~~ must return the letter of credit to the issuing institution for termination when:

1) An owner or operator substitutes alternate financial assurance; or~~;~~

2) The Agency releases the owner or operator in accordance with Section 704.222.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(d) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.218 Plugging and Abandonment Insurance

a) An owner or operator may satisfy the financial assurance requirement by obtaining insurance ~~which~~ that conforms to ~~the requirements of~~ this Section and submitting a certificate of such insurance to the Agency. An owner or operator of a new injection well must submit the certificate of insurance to the Agency with the permit application or for approval operate under rule. The insurance must be effective before injection starts. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

b) The wording of the certificate of insurance must be as specified in Section 704.240.

c) The policy must be issued for a face amount at least equal to the current cost estimate, except as provided in Section 704.220. 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.

d) The policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment begins, the ~~issurer~~ 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.

e) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment ~~expeditures~~ expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency ~~will~~ must determine whether the plugging and abandonment ~~expeditures~~ expenditures are in accordance with the plan or otherwise justified, and if so, ~~will~~ it must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment of the injection well.

f) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (j) of this Section. Failure to pay the premium, without substitution of alternate financial assurance, will constitute a significant violation of these regulations, warranting such remedy as the Agency deems necessary. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination or failure to renew due to non-payment of the premium, rather than upon the date of expiration.

g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

h) 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 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 of 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 any of the following occurs:

1) The Agency deems the injection well abandoned;

2) The permit is terminated or revoked or a new permit is denied; ~~or~~

3) Plugging and abandonment is ordered by the Board, ~~or~~ a U.S. district court, or ~~other~~ any other court of competent jurisdiction; ~~or~~

4) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 ~~U.S.C.~~ USC (Bankruptcy); or

5) The premium due is paid.

i) Whenever the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.

j) The Agency ~~will~~ must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:

1) An owner or operator substitutes alternate financial assurance; or~~;~~

2) The Agency releases the owner or operator in accordance with Section 704.222.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(e) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.219 Financial Test and Corporate Guarantee

a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or (a)(2) of this Section:

1) The owner or operator must have each of the following:

A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and ~~aratio~~ a ratio of current assets to current liabilities greater than 1.5;~~ and~~

B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate;~~ and~~

C) ~~Tangible~~ A tangible net worth of at least $10 million; and

D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.

2) The owner or operator must have each of the following:

A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's ~~and~~;

B) ~~Tangible~~ A tangible net worth at least six times the sum of the current cost estimate; ~~and~~

C) ~~Tangible~~ A tangible net worth of at least $10 million; and

D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimates.

b) The phrase "current cost estimate" as used in subsection (a) of this Section refers to the cost estimate required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer, as specified in Section 704.240.

c) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Agency:

1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 704.240; ~~and~~

2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that the following are true:

A) The accountant has compared the data ~~which~~ that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

B) In connection with that procedure, no matters came to the accountant's attention ~~which~~ that caused the accountant to believe

that the specified data should be adjusted.

d) An owner or operator of a new injection well must submit the items specified in subsection (c) of this Section to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (c) of this Section.

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

f) If the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator must send notice to the Agency intent to establish alternate 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. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

g) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) of this Section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (a), the owner or operator must provide alternate financial assurance within 30 days after notification of such a finding.

h) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements ~~[~~(see subsection (c)(2) of this Section~~]~~). An adverse opinion or disclaimer of opinion will be cause for disallowance. The Agency ~~will~~ must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance within 30 days after notification of the disallowance.

i) The owner or operator is no longer required to submit the items specified in subsection (c) of this Section when either of the following occurs:

1) An owner or operator substitutes alternate financial assurance; or

2) The Agency releases the owner or operator in accordance with Section 704.222.

j) An owner or operator may meet the requirements of this Section by obtaining a

written guarantee, hereafter referred to as "corporate guarantee.". The guarantor must be the parent corporation of the owner or operator. The ~~guarantor~~ guarantor must meet the requirements for owners or operators in subsections (a) through (h) of this Section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be as specified in Section 704.240. The corporate guarantee must accompany the items sent to the Agency, as specified in subsection (c) of this Section. The terms of the corporate ~~guarantee~~ guarantee must provide that the following limitations apply:

1) If the owner or operator fails to perform plugging and abandonment of the injection well covered by the corporate guarantee in accordance with the plan and other permit requirements whenever required to do so, the guarantor ~~will~~ must do so or establish a trust fund, as specified in Section 704.214 in the name of the owner or operator.

2) The corporate guarantee ~~will~~ must remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the Agency, as evidenced by the return receipts. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

3) If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor ~~will~~ must provide such alternative financial assurance in the name of the owner or operator.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(f) (2005).~~)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.220 Multiple Financial Mechanisms

An owner or operator may satisfy the financial assurance requirement by establishing more than one financial mechanism per injection well. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letter of credit, and insurance. The mechanisms must be as specified in Sections 704.214, 704.215, 704.217, and 704.218, respectively, except that it is the combination of mechanisms, rather than the single mechanism, ~~which~~ that must provide financial assurance for an amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, the owner or operator may use that trust fund as the standby trust fund for the other mechanisms. A single standby trust may be established for two or more mechanisms. The Agency may invoke any or all of the mechanisms to provide for plugging and abandonment of the injection well.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(g) (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.221 Financial Mechanism for Multiple Facilities

An owner or operator may use a financial assurance mechanism specified in Sections 704.213 or 704.220 to meet the financial assurance requirement for more than one injection well. Evidence of financial assurance submitted to the Agency must include a list showing, for each injection well, the ~~EPA Identification Number~~ USEPA identification number, name, address, and the amount of funds for plugging and abandonment assured by the mechanisms. The operator ~~shall~~ must provide sufficient financial assurance to the Agency to plug and abandon all of the wells the operator has in Illinois. 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 has been established and maintained for each injection well. In directing funds available through the mechanism for plugging and abandonment of any of the injection wells covered by the mechanism, the Agency may direct only the amount of funds designated for that injection well, unless the owner or operator agrees to use additional funds available under the mechanism.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(h) (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.222 Release of the Owner or Operator

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that plugging and abandonment has been accomplished in accordance with the plan, the Agency ~~will~~ must notify the owner or operator in writing that the owner or operator is no longer required by this Subpart G to maintain financial assurance for plugging and abandonment of the injection well, unless the Agency has reason to believe that plugging and abandonment has not been in accordance with the plan.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.63(i) (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.230 Incapacity

a) An owner or operator ~~shall~~ must notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under 11 ~~U.S.C.~~ USC (Bankruptcy), naming the owner or operator as debtor, within 10 business days after the commencement of the proceeding. A guarantor of a corporate guarantee as specified in Section 704.219 must make such a notification if the guarantor is named as debtor, as required under the terms of guarantee in Section 704.240.

b) An owner or operator who fulfills ~~the requirements of~~ Section 704.213 by

obtaining a letter of credit, surety bond, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance within 60 days after such an event.

~~(Board Note: See~~ BOARD NOTE: Derived from 40 CFR 144.64 (2005)~~.)~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.240 Wording of the Instruments

~~The Board incorporates by reference 40 CFR 144.70 (1992), as amended at 59 Fed. Reg. 29959 (June 10, 1994). This incorporation includes no future amendments or editions.~~ The Agency ~~will~~ must promulgate ~~standarized~~ standardized forms based on 40 CFR 144.70 (Wording of the Instruments), incorporated by reference in 35 Ill. Adm. Code 720.111(b), with such changes in wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Subpart G ~~shall~~ must do so only upon the ~~standarized~~ standardized forms promulgated by the Agency. The Agency may reject any financial assurance document that is not submitted on such standardized forms.

BOARD NOTE: Derived from 40 CFR 144.70 ~~(1992), as amended at 59 Fed. Reg. 29959 (June 10, 1994)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: ISSUED PERMITS

Section 704.260 Transfer

a) Transfer by modification. Except as provided in subsection (b) of this Section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under Sections 704.261 through 704.264) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act. The new owner or operator to whom the permit is transferred ~~shall~~ must comply with all the terms and conditions specified in such permit.

b) Automatic transfers. As an alternative to transfers under subsection (a) of this Section, any UIC permit for a well not injecting hazardous waste may be automatically transferred to a new permittee if each of the following conditions are fulfilled:

1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in subsection (b)(2) of this Section;

2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of Section 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under subsection (b) of this Section; and

3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or reissue the permit. A modification under this subsection (b) may also be a minor modification under Section 704.264. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b)(2) of this Section.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.182.~~ Derived from 40 CFR 144.38 ~~(1988)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.261 Modification

When the Agency receives any information (for example, it inspects the facility~~,~~; it receives information submitted by the permittee, as required in the permit (~~See~~ see 35 Ill. Adm. Code 702.140 through 702.152)~~,~~; it receives a request for modification or reissuance~~,~~; or it conducts a review of the permit file), it may determine whether or not one or more of the causes listed in Sections 704.262 and 704.263 for modification or reissuance exist. If cause exists, the Agency may modify or reissue the permit accordingly, subject to the limitations of Section 704.263 and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If cause does not exist under Sections 704.261 through 704.264, the Agency ~~shall~~ may not modify or reissue the permit. If a permit modification satisfies the criteria in Section 704.264 for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 followed.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.183.~~ Derived from 40 CFR 144.39 preamble ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.262 Causes for Modification

a) The following are causes for modification of ~~permits~~ a permit. For a Class I hazardous waste injection ~~wells~~ well or a Class III ~~wells~~ injection well, any of the following may be ~~causes~~ cause for reissuance of the permit, as well as for permit modification. For all other injection wells, the following may be cause for reissuance of the permit, as well as for permit modification, when the permittee

requests or agrees:

1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance ~~which~~ that justify the application of permit conditions that are different or absent in the existing permit.

2) Information. Permits other than for ~~UIC~~ a Class III ~~wells~~ injection well may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For ~~UIC~~ an area ~~permits~~ permit, this cause ~~shall~~ must include any information indicating that cumulative effects on the environment are unacceptable.

3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. ~~Permits~~ A permit other than for ~~UIC~~ a Class I hazardous ~~wells~~ waste injection well or a Class III ~~wells~~ injection well may be modified during their terms for this cause only as follows:

   A) The Agency may modify the permit when standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.

   B) The permittee may request modification when all of the following occur:

      i) The permit condition requested to be modified was based on a ~~promulgated~~ provision of 35 Ill. Adm. Code 730 ~~regulation; and~~

      ii) The Board has revised, withdrawn, or modified that ~~portion of the regulation~~ provision on which the permit condition was based; and

      iii) ~~A~~ The permittee requests modification in accordance with 35 Ill. Adm. Code 705.128 within ~~ninety (~~90~~)~~ days after ~~Illinois Register notice of the rulemaking~~ the effective date of the changed statute or amended standards or regulations on which the request is based.

   C) For judicial decisions, a court of competent jurisdiction has remanded and stayed Board promulgated regulations, if the remand and stay concern that portion of the regulations on which the

permit condition was based or if a request is filed by the permittee in accordance with 35 Ill. Adm. Code 705.128 within ~~ninety (~~90~~)~~ days ~~of~~ after judicial remand.

4) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, ~~or~~ materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

b) The following are causes to modify or, alternatively, to reissue a permit:

1) The Agency has received notification (as required in the permit, see ~~Section~~ 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (~~Section~~ 35 Ill. Adm. Code 702.182(b)), but ~~will~~ it must not be reissued after the effective date of the transfer, except upon the request of the new permittee.

2) A determination that the waste being injected is a hazardous waste, as defined in 35 Ill. Adm. Code 721.103, either because the definition has been revised, or because a previous determination has been changed.

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.184.~~ Derived from 40 CFR 144.39 ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.263 Well Siting

Suitability of the well location ~~will~~ must not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists ~~which~~ that was unknown at the time of permit issuance or unless required under the ~~Environmental Protection~~ Act [415 ILCS 5]. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the ~~Environmental Protection~~ Act [415 ILCS 5/39.2].

BOARD NOTE: ~~Formerly codified as 35 Ill. Adm. Code 702.185.~~ Derived from 40 CFR 144.39(c) ~~(1993)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.264 Minor Modifications

Upon the consent of the permittee, the Agency may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this Section, without following the procedures of 35 Ill. Adm. Code 705. Any permit modification not processed as a minor

modification under this Section must be made for cause and with a 35 Ill. Adm. Code 705 draft permit and public notice, as required in Sections 704.261 through 704.263. Minor modifications may only involve the following changes:

a) ~~Correct~~ Correcting typographical errors;

b) ~~Require~~ Requiring more frequent monitoring or reporting by the permittee;

c) ~~Change~~ Changing an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

d) ~~Allow~~ Allowing for a change in ownership or operational control of a facility where the Agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Agency~~.~~; or

e) ~~Limited Changes~~Making other limited changes, as follows:

1) ~~Change~~ Changing quantities or types of fluids injected ~~which~~ that are within the capacity of the facility as permitted and, in the judgment of the Agency, would not interfere with the operation of the facility or its ability to meet conditions described in the permit and would not change its classification.

2) ~~Change~~ Changing construction requirements approved by the Agency pursuant to 35 Ill. Adm. Code 704.182 (establishing UIC permit conditions), provided that any such alteration ~~shall~~ must comply with ~~the requirements of~~ this Part and 35 Ill. Adm. Code ~~704~~ 702 and 730.

3) ~~Amend~~ Amending a plugging and abandonment plan ~~which~~ that has been updated under ~~35 Ill. Adm. Code~~ Section 704.181(e).

BOARD NOTE: Derived from 40 CFR 144.41 ~~(1988)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section 704.279 General

This Subpart I sets forth the requirements applicable to the owner or operator of a Class V injection well. Additional requirements listed elsewhere in this Part may also apply. Where they may apply, those other requirements are referenced rather than repeated in this Subpart I. The

requirements described in this Subpart I and elsewhere in this Part are intended to protect ~~underground sources of drinking water~~ USDWs and are part of the ~~underground injection control (~~UIC~~)~~ program established under Section 13(c) of the Act [415 ILCS 5/13(c)].

BOARD NOTE: Derived from 40 CFR 144.79~~, as added at 64 Fed. Reg. 68566 (December 7, 1999)~~ (2005). USEPA wrote ~~the federal counterpart to this Subpart,~~ corresponding subpart G of 40 CFR 144~~, Subpart G,~~ in a question-and-answer format to make it easier to understand the regulatory requirements. The Board has abandoned that format in favor of a more traditional approach of using clear statements of the requirements and their applicability.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.280 Definition of a Class V Injection Well

Section 704.106 defines the five classes of injection wells, including a Class V injection well, as regulated under this Subpart I. Typically, Class V injection wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under ~~the Resource Conservation and Recovery Act (~~RCRA~~)~~, the well is either a Class I or Class IV injection well, not a Class V injection well. Examples of Class V injection wells are described in Section 704.281.

BOARD NOTE: Derived from 40 CFR 144.80~~, as added at 64 Fed. Reg. 68566 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.281 Examples of Class V Injection Wells

The following are examples of Class V injection wells to which this Subpart I applies:

a) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

b) ~~Large~~ A large capacity ~~cesspools~~ cesspool, including a multiple-dwelling, community, or regional ~~cesspools~~ cesspool, or any other ~~devices~~ device that ~~receive~~ receives sanitary wastes containing human excreta~~,~~ that ~~have~~ has an open bottom and, sometimes, perforated sides. The UIC requirements do not apply to a single family residential ~~cesspools~~ cesspool, nor do they apply to a non-residential ~~cesspools~~ cesspool that ~~receive~~ receives solely sanitary waste and which ~~have~~ has the capacity to serve fewer than 20 persons a day;

c) ~~Cooling~~ A cooling water return flow ~~wells~~ well that ~~are~~ is used to inject water previously used for cooling;

d) ~~Drainage wells~~ A drainage well that ~~are~~ is used to drain surface fluids, primarily storm runoff, into a subsurface formation;

e) ~~Dry wells~~ A dry well that ~~are~~ is used for the injection of wastes into a subsurface formation;

f) ~~Recharge wells~~ A recharge well that ~~are~~ is used to replenish the water in an aquifer;

g) ~~Salt~~ A salt water intrusion barrier ~~wells~~ well that ~~are~~ is used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water;

h) ~~Sand~~ A sand backfill and other backfill ~~wells~~ well that ~~are~~ is used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of a subsurface ~~mines~~ mine whether what is injected is a radioactive waste or not;

i) ~~Septic~~ A septic system ~~wells~~ well that ~~are~~ is used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to a single family residential septic system ~~wells~~ well, nor to a non-residential septic system ~~wells~~ well that ~~are~~ is used solely for the disposal of sanitary waste and which ~~have~~ has the capacity to serve fewer than 20 persons a day;

j) ~~Subsidence~~ A subsidence control ~~wells~~ well (not used for the purpose of oil or natural gas production) that ~~are~~ is used to inject fluids into a non-oil-and-gas-producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

k) ~~Injection wells~~ An injection well associated with the recovery of geothermal energy for heating, aquaculture, and production of electric power;

l) ~~Wells~~ A well that ~~are~~ is used for solution mining of conventional mines, such as stopes leaching;

m) ~~Wells~~ A well that ~~are~~ is used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;

n) ~~Injection wells~~ An injection well that ~~are~~ is used in experimental technologies;

o) ~~Injection wells~~ An injection well that ~~are~~ is used for in situ recovery of lignite, coal, tar sands, and oil shale; and

p) ~~Motor~~ A motor vehicle waste disposal ~~wells~~ well that ~~receive~~ receives or which ~~have~~ has received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, an automotive repair shop, a new or used car dealership, a specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in ~~these wells~~ this type of well may contain organic and inorganic chemicals in concentrations that exceed

the maximum contaminant levels (MCLs) established by the primary drinking water regulations (35 Ill. Adm. Code 611). These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, that pose risks to human health.

BOARD NOTE: Derived from 40 CFR 144.81~~, as added at 64 Fed. Reg. 68566 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment of the USDW, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730, that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

a) Prohibition of fluid movement.

1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may cause a violation of other health-based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.

2) If the Agency learns that an owner's or operator's injection activity may endanger ~~USDWs~~ a USDW, the Agency may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).

b) Closure requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to its well in accordance with all applicable federal, State, and local regulations and requirements.

c) Other requirements in this Part and 35 Ill. Adm. Code 702 and 730. Beyond this Subpart I, the owner and operator are subject to other UIC program requirements in this Part and 35 Ill. Adm. Code 702 and 730. While most of the relevant requirements are repeated or referenced in this Subpart I for convenience, the

owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to fully understand the entire UIC program.

d) Other State requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency has the flexibility to establish additional or more stringent requirements based on the authorities in this Part, ~~and~~ 35 Ill. Adm. Code 702 and 730, and the Act [415 ILCS 5], if such additional requirements are determined to be necessary to protect USDWs. The owner and operator must comply with any such additional requirements. The owner or operator should contact the Agency to learn more.

BOARD NOTE: Derived from 40 CFR 144.82 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.283 Notification of a Class V Injection Well

The owner or operator of a Class V injection well needs to provide basic "inventory information" about its well to the Agency, if the owner or operator has not done so already. The owner or operator also needs to provide any additional information that the Agency requests in accordance with the provisions of the UIC regulations.

a) Inventory requirements. Unless the owner or operator knows it has already satisfied the inventory requirements in Section 704.128 that were in effect prior to the issuance of this Subpart I, the owner or operator must give the Agency certain information about itself and its injection operation.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on national form "Inventory of Injection Wells," ~~OMB No. 2040-0042~~ USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a). Although ~~the form OMB No. 2040-0042~~ USEPA Form 7520-16 is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

1) The owner or operator of a new or existing Class V injection well must contact the Agency to determine what information it must submit and by when it must submit that information.

2) The following is the information that the owner or operator must submit:

A) No matter what type of Class V injection well is owned or operated, the owner or operator must submit at least the following information for each Class V injection well: ~~facility name and location; name and address of a legal contact person for the facility; the ownership of the facility; the nature and type of the injection well or wells; and the operating status of the injection~~

~~well or wells.~~

i) The facility name and location;

ii) The name and address of a legal contact person for the facility;

iii) The ownership of the facility;

iv) The nature and type of the injection well or wells; and

v) The operating status of the injection well or wells.

B) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

C) The owner or operator must provide a list of all wells it owns or operates, along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

i) The location of each well or project given by Township, Range, Section, and Quarter-Section, according to the U.S. Land Survey System;

ii) The date of completion of each well;

iii) The identification and depth of the underground ~~formation(s)~~ formations into which each well is injecting;

iv) The total depth of each well;

v) A construction narrative and schematic (both plan view and cross-sectional drawings);

vi) The nature of the injected fluids;

vii) The average and maximum injection pressure at the wellhead;

viii) The average and maximum injection rate; and

ix) The date of the last inspection.

3) The owner and operator is responsible for knowing about, understanding, and complying with these inventory requirements.

b) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.83 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.284 Permit Requirements

No permit is required for a Class V injection well, unless the owner or operator falls within an exception described in subsection (b) of this Section.

a) General authorization by rule. With certain exceptions listed in subsection (b) of this Section, an owner's or operator's Class V injection activity is "authorized by rule," meaning that the owner and operator has to comply with all the requirements of this Subpart I and the rest of this Part and 35 Ill. Adm. Code 702 and 730, but the owner or operator does not need to get an individual permit. Well authorization expires once the owner or operator has properly closed its well, as described in Section 704.282(b).

b) Circumstances in which permits or other actions are required. If an owner or operator fits into one of the categories listed below, its Class V injection well is no longer authorized by rule. This means that the owner or operator has to either get a permit or close its injection well. The owner or operator can find out whether its well falls into one of these categories by contacting the Agency. Subparts D and H of this Part tell an owner or operator how to apply for a permit and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm. Code 702 and Subpart E of this Part outline some of the requirements that apply to the owner or operator if it gets a permit. An owner or operator must either obtain a permit or close its injection well if any of the following is true:

1) The owner or operator fails to comply with the prohibition against fluid movement in Section 704.122(a) and described in Section 704.282(a) (in which case, the owner or operator must get a permit, close its well, or comply with other conditions determined by the Agency);

2) The Class V injection well is a large-capacity cesspool (in which case, the owner or operator must close its well as specified in the additional requirements set forth in Section 704.288) or the Class V injection well is a motor vehicle waste disposal well in a groundwater protection area or a

sensitive groundwater area (in which case, the owner or operator must either close its well or get a permit, as specified in the additional requirements set forth in Section 704.288). New motor vehicle waste disposal wells and new cesspools are prohibited;

BOARD NOTE: A new motor vehicle waste disposal well or a new cesspool is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.84(a)(2) ~~(2000)~~.

3) The owner or operator is specifically required by the Agency to get a permit (in which case, the authorization by rule expires on the effective date of the permit issued, or the owner or operator is prohibited from injecting into its well upon the occurrence of either of the following:

A) The failure of the owner and operator to submit a permit application in a timely manner, as specified in a notice from the Agency; or

B) The effective date of a permit denial; or

4) The owner or operator has failed to submit inventory information to the Agency, as described in Section 704.283(a) (in which case, the owner and operator is prohibited from injecting into the well until it complies with the inventory requirements~~; or~~.

5) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.84(b)(5) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.84 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.285 Applicability of the Additional Requirements

a) Large-capacity cesspools. The additional requirements set forth in Section 704.288 apply to ~~all~~ a new and existing large-capacity ~~cesspools~~ cesspool. If the owner or operator is using a septic system for these type of wastes, the owner or operator is not subject to the additional requirements in Section 704.288.

b) Motor vehicle waste disposal wells existing on April 5, 2000. If the owner or operator has a Class V motor vehicle waste disposal well, the additional requirements in Section 704.288 apply to that owner or operator if the well is located in a ground water Tprotection area or other sensitive ground water area that is identified by the Agency, the Board, or USEPA Region ~~V~~ 5.

BOARD NOTE: An existing motor vehicle waste disposal well is one for which construction had commenced prior to April 5, 2000. See 40 CFR 144.83(a)(1)(i) and (a)(1)(ii), as added at ~~40 CFR~~ 64 Fed. Reg. 68568 (December 7, 1999). Corresponding 40 CFR 144.85(b) provides that the additional requirements apply Statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has not included this Statewide applicability provision by virtue of 14.1 through 14.6 and Sections 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620.

c) New Motor Vehicle Waste Disposal Wells. The additional requirements in Section 704.288 apply to ~~all~~ a new motor vehicle waste disposal ~~wells~~ well.

BOARD NOTE: A new motor vehicle waste disposal well is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.85(c)~~, as added at 40 CFR 68568 (December 7, 1999)~~ (2005).

BOARD NOTE: Derived from 40 CFR 144.85~~, as added at 64 Fed. Reg. 68569 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.286 Definitions

"State drinking water source assessment and protection program" is a new approach to protecting drinking water sources, specified in section 1453 of the 1996 Amendments to the Safe Drinking Water Act (42 USC 300j-13). BOARD NOTE: Under the federal requirements, states must prepare and submit for USEPA approval a program that sets out how each state ~~will~~ must conduct local assessments, including the following: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination. The Illinois Groundwater Protection Act [415 ILCS 55] and the regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act [415 ILCS 14.1-14.6 and 17.1-17.4] and the regulations at 35 Ill. Adm. Code 615 through 617 adopted under those provisions are major segments of the required Illinois program.

"Complete local source water assessment for groundwater protection areas." When USEPA has approved a state's drinking water source assessment and protection program, the state ~~will~~ must begin to conduct local assessments for each public water system in that state. For the purposes of this Subpart I, local assessments for community water systems and non-transient non-community

systems are complete when the four following requirements are met:

The State must delineate the boundaries of the assessment area for community and non-transient non-community water systems, as such are defined in 35 Ill. Adm. Code 611.101;

The State must identify significant potential sources of contamination in these delineated areas;

The State must determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants; and

The Agency must make the completed assessments available to the public.

BOARD NOTE: The Agency administers the "Illinois Source Water Assessment and Protection Program," which is intended to comply with the federal source water assessment requirements of SDWA Section 1453 (42 USC 300j-13).

"Groundwater protection area" is a geographic area near or surrounding a community or non-transient non-community water system, as defined in 35 Ill. Adm. Code 611.101, that uses groundwater as a source of drinking water. For the purposes of this Subpart I, the Board considers a "setback zone," as defined in Section 3.61 of the Act [415 ILCS 5/3.61] and regulated pursuant to Sections 14.1 through 14.6 of the Act [415 ILCS 5/14.1-14.6], to be a "groundwater protection area," as intended by corresponding 40 CFR 144.86(c). (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the protection of drinking water supplies and federal law requires the State to delineate and assess these areas under section 1453 of the federal Safe Drinking Water Act, 42 USC 300j-13. The additional requirements in Section 704.288 apply to an owner or operator if its Class V motor vehicle waste disposal well is in a groundwater protection area for either a community water system or a non-transient non-community water system. BOARD NOTE: USEPA stated in corresponding 40 CFR 144.86(c) that in many states these areas will be the same as wellhead protection areas delineated as described in section 1428 of the federal SDWA~~,~~ (42 USC 300h-7).

"Community water system," as defined in 35 Ill. Adm. Code 611.101, is a public water system that serves at least 15 service connections used by year-round residents or which regularly serves at least 25 year-round residents.

"Non-transient, non-community water system," as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

"Delineation." Once the State's drinking water source assessment and protection program is approved by USEPA, the State ~~will~~ must begin delineating its local assessment areas. "Delineation" is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

"Other sensitive groundwater areas." The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting ~~underground sources of drinking water~~ USDWs from contamination. For the ~~urposes~~ purposes of this Subpart I, the Board considers a "regulated recharge area," as defined in Section 3.67 of the Act [415 ILCS 5/3.67] and regulated pursuant to Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], to be an "other sensitive groundwater area," as intended by corresponding 40 CFR 144.86(g). (See 35 Ill. Adm. Code 615 through 617.) These other sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

a) A person is subject to ~~the requirements of~~ Section 704.288 if the person owns or operates an existing motor vehicle well and that person is located in a groundwater protection area or another sensitive groundwater area. If the State fails to identify these areas within the ~~federally-specified~~ federally specified time frames, the additional requirements of Section 704.288 ~~will~~ must apply to all existing motor vehicle waste disposal wells within this State.

BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has interpreted "new requirements" as synonymous with "additional requirements" elsewhere in this Subpart I. Sections 14.1 through 14.6 and 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4] and 35 Ill. Adm. Code 615 through 617 designate protected groundwater resources and allow the designation of other sensitive areas for protection. Further, the Illinois Groundwater Protection Act [415 ILCS 55], and the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the

quality of all groundwater resources in Illinois.

b) Groundwater protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth requirements applicable to the State only. Other requirements apply to the regulated community contingent on the regulatory status of the Illinois groundwater protection program. The Board ~~codifies~~ has codified the requirements applicable to the State in this subsection (b) for the purpose of informing the regulated public and clarifying the requirements on the regulated community.

1) For the purpose of this Subpart I, USEPA requires States to complete all local source water assessments for groundwater protection areas by January 1, 2004. Once a local assessment for a groundwater protection area is complete every existing motor vehicle waste disposal well owner in that groundwater protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for groundwater protection areas by January 1, 2004, the following may occur:

A) The new requirements in this Subpart I ~~will~~ apply to all existing motor vehicle waste disposal wells in the State, and the owner ~~and~~ or operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for groundwater protection areas must ~~close their~~ have closed its well or ~~receive~~ obtained a permit by January 1, 2005.

B) USEPA may ~~grant~~ have granted a state an extension for up to one year from the January 1, 2004 deadline if the state ~~is~~ was making reasonable progress toward completing the source water assessments for groundwater protection areas. States must ~~apply~~ have applied for the extension by June 1, 2003. If a state ~~fails~~ failed to complete the assessments for the remaining groundwater protection areas by the extended date, the rule requirements ~~will~~ apply to all motor vehicle waste disposal wells in the state, and ~~owners and operators~~ the owner or operator of a motor vehicle waste disposal ~~wells~~ well located outside of groundwater protection areas with completed assessments must ~~close their~~ have closed its well or ~~receive~~ received a permit by January 1, 2006.

2) The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient

compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

c) Other sensitive groundwater areas. ~~Existing~~ The owner or operator of an existing motor vehicle waste disposal well ~~owners and operators~~ within ~~other~~ another sensitive groundwater ~~areas have~~ area has until January 1, 2007 to receive a permit or close the well. If the State ~~fails~~ failed to identify these additional sensitive groundwater areas by January 1, 2004, the additional requirements of Section 704.288 ~~will~~ apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive groundwater areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive groundwater area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section.

BOARD NOTE: Corresponding 40 CFR 144.87(c) provides that the State ~~has~~ had until January 1, 2004 to identify sensitive groundwater areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State ~~has~~ had applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used elsewhere in this Subpart I. Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.

d) Finding out if a well is in a groundwater protection area or sensitive groundwater area. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a groundwater protection area or another sensitive groundwater area.

e) Changes in the status of the State drinking water source assessment and protection program. If the State assesses a groundwater protection area for groundwater supplying a new community water system or a new non-transient non-community water system after January 1, 2004, or if the State re-delineates the boundaries of a previously delineated groundwater protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes the local assessment for the groundwater protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

f) If the State elects not to delineate the additional sensitive groundwater areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007, or January 1, 2008 if an extension has been granted as provided in subsection (c) of this Section, except for wells in groundwater protection areas that are subject to different compliance deadlines explained in subsection (b) of this Section.

g) Application of requirements outside of groundwater protection areas and sensitive groundwater areas. The Agency must apply the additional requirements in Section 704.288 to an owner or operator, even if the owner's or operator's well is not located in the areas listed in subsection (a) of this Section, if the Agency determines that the application of those additional requirements is necessary to protect human health and the environment.

BOARD NOTE: Any Agency determination to apply the additional requirements of Section 704.288 is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40]. The Board has omitted certain segments of corresponding 40 CFR 144.87 that encouraged State actions, since those segments did not impose requirements on the regulated community.

BOARD NOTE: Derived from 40 CFR 144.87 ~~(2000)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.288 Additional Requirements

Additional requirements are as follows:

a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section 704.285 to determine the applicability of these additional requirements.

1) If the cesspool is existing (operational or under construction by April 5, 2000), the following requirements apply:

A) The owner or operator must ~~close~~ have closed the well by April 5, 2005.

B) The owner or operator must ~~notify~~ have notified the Agency of its intent to close the well at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells." Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

2) If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.

BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.

1) If the motor vehicle waste disposal well is existing (operational or under construction by April 5, 2000) the following applies:

A) If the well is in a groundwater protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

B) If the well is in an other sensitive groundwater area, the owner or operator must close the well or obtain a permit by January 1, 2007; the Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is

necessary to implement the compliance option;

C) If the owner or operator plans to seek a waiver from the ban and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;

D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other ~~health based~~ health-based standards at the point of injection, follow best management practices, and monitor the injectate and sludge quality;

E) If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must ~~close~~ have closed the well or ~~obtain~~ obtained a permit by January 1, 2005, unless the State ~~obtains~~ obtained an extension, as described in Section 704.287(b), in which case the deadline ~~is~~ was January 1, 2006; the Agency must ~~extend~~ have extended the closure deadline, but not the permit application deadline, for up to one year if it ~~determines~~ determined that the most efficient compliance option ~~is~~ was connection to a sanitary sewer or installation of new treatment technology and the extension ~~is~~ was necessary to implement the compliance option;

F) If the State ~~has~~ had not delineated other sensitive groundwater areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(c), in which case the deadline is January 2008; or

G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal

form entitled "Preclosure Notification for Closure of Injection Wells." Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) of this Section is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

2) If the motor vehicle waste disposal well is new or converted (construction not started before April 5, 2000) it is prohibited.

BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

BOARD NOTE: Derived from 40 CFR 144.88 (2000).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 704.289 Closure of a Class V Injection Well

The following describes the requirements for closing or converting a Class V injection well:

a) Closure.

1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, the owner or operator must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement set forth in Section 704.122 and summarized in Section 704.282(a). The owner or operator must also dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements, as described in Section 704.282(b).

2) Closure does not mean that the owner or operator needs to cease operations at its facility, only that the owner or operator needs to close its well. A number of alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include the following: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up

accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works (POTW). The owner or operator should check with the POTW that it might use to see if the POTW would accept the owner's or operator's wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include the following: conversion to a septic system; connection to a sewer; ~~and~~ or installation of an on-site treatment unit.

b) Conversions. In limited cases, the Agency may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if the ~~following~~ two conditions of subsections (b)(1) and (b)(2) of this Section are fulfilled, subject to the conditions of subsection (b)(3) of this Section: ~~(1) all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well and (2) injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.~~

1) All motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and

2) Injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal.

3) The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V injection well.

BOARD NOTE: Derived from 40 CFR 144.89~~, as added at 64 Fed. Reg. 68572 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 705
PROCEDURES FOR PERMIT ISSUANCE

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

SOURCE: Adopted in R81-32~~, 47 PCB 93,~~ at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19, at 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11894, effective July 24, 1985; amended in R89-2 at 14 Ill. Reg. 3082, effective February 20, 1990; amended in R94-5 at 18 Ill. Reg. 18265, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9906, effective June 27, 1995; amended in R03-7 at 27 Ill. Reg. 3675, effective February 14, 2003; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 705.101 Scope and Applicability

a) This Part sets forth procedures that the Illinois Environmental Protection Agency (Agency) must follow in issuing RCRA (Resource Conservation and Recovery Act) and UIC (Underground Injection Control) permits. This Part also specifies rules on effective dates of permits and stays of contested permit conditions.

b) This Part provides for a public comment period and a hearing in some cases. The permit applicant and any other participants must raise issues during this proceeding to preserve issues for effective Board review, as required by Section 705.183.

c) Board review of permit issuance or denial is pursuant to 35 Ill. Adm. Code 105. Board review is restricted to the record that was before the Agency when the permit was issued, as required by Sections 40(a) and 40(b) of the Environmental Protection Act [415 ILCS 5/40(a) and (b)].

d) The provisions of 35 Ill. Adm. Code 702, 703, and 704 contain rules on UIC and RCRA permit applications, permit conditions, and related matters.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 705.104 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATIONS

Section 705.128 Modification or Reissuance of Permits

a) The Agency may modify or reissue a permit either at the request of any interested person (including the permittee) or on its own initiative. However, the Agency may only modify or reissue a permit for the reasons specified in 35 Ill. Adm. Code 704.261 through 704.263 (UIC) or 35 Ill. Adm. Code 703.270 through 703.273 (RCRA). A request for permit modification or reissuance must be made in writing, must be addressed to the Agency (Division of Land Pollution Control), and must contain facts or reasons supporting the request.

b) If the Agency determines that a request for modification or reissuance is not justified, it must send the requester a brief written response giving a reason for the determination. A denial of a request for modification or reissuance is not subject to public notice, comment, or public hearing requirements. The requester may appeal a denial of a request to modify or reissue a permit to the Board pursuant to 35 Ill. Adm. Code 105.

c) Agency Modification or Reissuance Procedures.

1) If the Agency tentatively decides to initiate steps to modify or reissue a permit ~~under~~ pursuant to this Section and 35 Ill. Adm. Code 704.261 through 704.263 or 35 Ill. Adm. Code 703.270 through 703.273 (other than 35 Ill. Adm. Code 703.272(c)), after giving public notice pursuant to Section 705.161(a)(1), as though an application had been received, it must prepare a draft permit ~~under~~ pursuant to Section 705.141 incorporating the proposed changes. The Agency may request additional information and may require the submission of an updated permit application. For reissued permits, other than those reissued under 35 Ill. Adm. Code 703.272(c), the Agency must require the submission of a new application. For permits

reissued under 35 Ill. Adm. Code 703.272(c), the Agency ~~must require the submission of a new application~~ and the permittee must comply with the appropriate requirements in Subpart G of 35 Ill. Adm. Code 705.

2) In a permit modification proceeding ~~under~~ pursuant to this Section, only those conditions to be modified must be reopened when a new draft permit is prepared. When a permit is to be reissued ~~under~~ pursuant to this Section, the entire permit is reopened just as if it had expired. During any reissuance proceeding, including any appeal to the Board, the permittee must comply with all conditions of its existing permit until a new final permit is reissued.

3) "Minor modifications," as defined in 35 Ill. Adm. Code 704.264, and "Class 1 and 2 modifications," as defined in 35 Ill. Adm. Code 703.281 and 703.282, are not subject to ~~the requirements of~~ this Section.

d) To the extent that the Agency has authority to reissue a permit, it must prepare a draft permit or notice of intent to deny in accordance with Section 705.141 if it decides to do so.

e) The Agency or any person may seek the revocation of a permit in accordance with Title VIII of the Environmental Protection Act [415 ILCS 5/Title VIII] and the procedure of 35 Ill. Adm. Code 103. Revocation may only be sought for those reasons specified in 35 Ill. Adm. Code 702.186(a) through (d).

BOARD NOTE: Derived from 40 CFR 124.5 ~~(2002)~~ (2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: APPLICATION REVIEW

Section 705.143 Fact Sheet

a) A fact sheet must be prepared for every draft permit for a major HWM or a major UIC facility or activity, and for every draft permit or notice of intent to deny that the Agency finds is the subject of widespread public interest or raises major issues. The fact sheet must briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Agency must send this fact sheet to the applicant and, on request, to any other person.

b) The fact sheet must include the following, when applicable:

1) A brief description of the type of facility or activity that is the subject of the draft permit;

2) The type and quantity of wastes, fluids or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;

3) A brief summary of the basis for refusing to grant a permit or for imposing each draft permit condition including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record as defined by Section 705.144;

4) Reasons why any requested schedules of compliance or other alternatives to required standards do or do not appear justified;

5) A description of the procedures for reaching a final decision on the draft permit including the following:

A) The beginning and ending dates of the comment period ~~under~~ pursuant to Subpart D of this Part, and the address where comments will be received;

B) Procedures for requesting a hearing, and the nature of that hearing; and

C) Any other procedures by which the public may participate in the final decision.

6) The name and telephone number of a person to contact for additional information.

BOARD NOTE: Derived from 40 CFR 124.8 (2002).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: PROCEDURE FOR RCRA STANDARDIZED PERMIT

Section 705.300 General Information About RCRA Standardized Permits

a) RCRA standardized permit. A RCRA standardized permit is a special form of RCRA permit that may consist of two parts: a uniform portion that the Agency issues in all cases, and a supplemental portion that the Agency issues on a case-by-case basis at its discretion. The term "RCRA standardized permit" is defined in 35 Ill. Adm. Code 702.110.

1) The uniform portion. The uniform portion of a RCRA standardized permit consists of terms and conditions, relevant to the units operated at a facility, that appear in 35 Ill. Adm. Code 727 (Standards for Owners and Operators of Hazardous Waste Facilities Operating under a RCRA Standardized Permit). If an owner or operator intends to operate under the RCRA

standardized permit, it must comply with the nationally applicable terms and conditions of 35 Ill. Adm. Code 727.

2) The supplemental portion. The supplemental portion of a RCRA standardized permit consists of site-specific terms and conditions, beyond those of the uniform portion, that the Agency may impose on a particular facility, as necessary to adequately protect human health and the environment. If the Agency issues a supplemental portion, the owner or operator must comply with the Agency-imposed site-specific terms and conditions.

A) When required pursuant to 35 Ill. Adm. Code 727.190(l), provisions to implement corrective action must be included in the supplemental portion.

B) Unless otherwise specified, the supplemental permit terms and conditions apply to a facility in addition to the terms and conditions of the uniform portion of the RCRA standardized permit and not in place of any of those terms and conditions.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.200, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Eligibility for a RCRA standardized permit.

1) A facility owner or operator may be eligible for a RCRA standardized permit if it engages in either of the following:

A) It generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or containment buildings; or

B) It receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then it stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

C) In either case, the Agency must inform the owner or operator of its eligibility when a decision is made on its permit.

2) This subsection (b)(2) corresponds with 40 CFR 124.201(b), which USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal rule.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.201, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 705.301 Applying for a RCRA Standardized Permit

a) Applying for a RCRA standardized permit.

1) A facility owner or operator must follow the requirements in this Subpart, as well as those in 35 Ill. Adm. Code 703.191 and Subparts B and J of 35 Ill. Adm. Code 703.

2) The owner or operator must submit to the Agency a written Notice of Intent to operate under the RCRA standardized permit. The owner or operator must also include the information and certifications required pursuant to Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.202, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Switching from an individual RCRA permit to a RCRA standardized permit. Where all units in the RCRA permit are eligible for a RCRA standardized permit, the owner or operator may request that the Agency reissue its individual permit as a RCRA standardized permit. Where only some of the units in the RCRA permit are eligible for the RCRA standardized permit, the owner or operator may request that the Agency modify its individual permit to no longer include those units and issue a RCRA standardized permit for those units. The Agency must modify or reissue any permit in accordance with 35 Ill. Adm. Code 705.128. The Agency must issue any RCRA standardized permit (or reissue a RCRA permit as a RCRA standardized permit) in accordance with Section 705.302(a).

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.203, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 705.302 Issuance of a RCRA Standardized Permit

a) Agency preparation of a draft RCRA standardized permit.

1) The Agency must review the Notice of Intent and supporting information submitted by the facility owner or operator.

2) The Agency must determine whether the facility is or is not eligible to operate under the RCRA standardized permit.

A) If the facility is eligible for the RCRA standardized permit, the

Agency must propose terms and conditions, if any, to include in a supplemental portion. If the Agency determines that these terms and conditions are necessary to adequately protect human health and the environment, and the terms and conditions cannot be imposed, the Agency must tentatively deny coverage under the RCRA standardized permit.

B) If the facility is not eligible for the RCRA standardized permit, the Agency must tentatively deny coverage under the RCRA standardized permit. Cause for ineligibility may include, but is not limited to, the following:

i) A failure of owner or operator to submit all the information required pursuant to 35 Ill. Adm. Code 703.351(b).

ii) Information submitted that is required pursuant to 35 Ill. Adm. Code 703.351(b) that is determined to be inadequate.

iii) The facility does not meet the eligibility requirements (its activities are outside the scope of the RCRA standardized permit).

iv) A demonstrated history of significant non-compliance with applicable requirements.

v) Permit conditions cannot ensure adequate protection of human health and the environment.

3) The Agency must prepare its draft permit decision within 120 days after receiving the Notice of Intent and supporting documents from a facility owner or operator. The Agency's tentative determination pursuant to this Section to deny or grant coverage under the RCRA standardized permit, including any proposed site-specific conditions in a supplemental portion, constitutes a draft permit decision. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency must inform the permit applicant during the initial 120-day review period. Reasons for an extension may include, but are not limited to, needing to complete review of submissions with the Notice of Intent (*e.g.*, closure plans, waste analysis plans, etc. for facilities seeking to manage hazardous waste generated off-site).

4) Many requirements in this Part and 35 Ill. Adm. Code 702 apply to processing the RCRA standardized permit application and preparing the Agency's draft permit decision. For example, the Agency's draft permit decision must be accompanied by a statement of basis or fact sheet and

must be based on the administrative record. In preparing the Agency's draft permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):

A) Section 705.101 (Scope and Applicability): all subsections apply.

B) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.

C) Sections 705.121 (Permit Application) and 705.124 (Site Visit): all subsections apply.

D) Section 705.127 (Consolidation of Permit Processing): applies.

E) Section 705.128 (Modification or Reissuance of Permits): does not apply.

F) Section 705.141 (Draft Permits): does not apply to the RCRA RCRA standardized permit; procedures in this Subpart G apply instead.

G) Section 705.142 (Statement of Basis): applies.

H) Section 705.143 (Fact Sheet): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.

I) Section 705.144 (Administrative Record for Draft Permits or Notices of Intent to Deny): all subsections apply.

J) Subpart D of this Part (Public Notice): only Section 705.163(a)(4) and (a)(5)(A) applies to the RCRA standardized permit. Most of Subpart D of this Part does not apply to the RCRA standardized permit; Section 705.303(a) through (c) applies instead.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.204, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Preparation of a final RCRA standardized permit. The Agency must consider all comments received during the public comment period (see Section 705.303(b)) in making its final permit decision. In addition, many requirements in this Part and 35 Ill. Adm. Code 702 apply to the public comment period, public hearings, and preparation of the Agency's final permit decision. In preparing a final permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):

1) Section 705.101 (Scope and Applicability): all subsections apply.

2) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.

3) Section 705.181 (Public Comments and Requests for Public Hearings): Section 705.181 does not apply to the RCRA standardized permit; the procedures in Section 705.303(b) apply instead.

4) Section 705.182 (Public Hearings): Section 705.182(b), (c), and (d) applies.

5) Section 705.183 (Obligation to Raise Issues and Provide Information): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.

6) Section 705.184 (Reopening of the Public Comment Period): all of subsections apply; however, in the context of the RCRA standardized permit, the reference in Section 705.184(b)(1) to preparation of a draft permit is Section 705.302(a) instead of Section 705.141; the reference in Section 705.184(b)(3) to reopening or extending the comment period relates to Section 705.303(b); the reference in Section 705.184(c) to the public notice is Section 705.303(a) instead of Subpart D of this Part.

7) Section 705.201 (Final Permit Decision): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.

8) Section 705.202 (Stay of Permit Conditions upon Appeal): all subsections apply.

9) Section 705.210 (Agency Response to Comments): Section 705.210 does not apply to the RCRA standardized permit; procedures in Section 705.303(c) apply instead.

10) Section 705.211 (Administrative Record for Final Permit or Letters of Denial): all subsections apply, however, the reference to response to comments is Section 705.303(c) instead of Section 705.210.

11) Section 705.212 (Appeal of Appeal of Agency Permit Determinations): . all subsections apply.

12) Section 705.103 (Computation of Time): all subsections apply.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.205, as added at 70

Fed. Reg. 53420 (Sep. 8, 2005).

c) When a facility owner or operator must apply for an individual permit.

1) Instances in which the Agency may determine that a facility is not eligible for the RCRA standardized permit include, but are not limited to, the following:

A) The facility does not meet the criteria in Section 705.300(b).

B) The facility has a demonstrated history of significant non-compliance with regulations or permit conditions.

C) The facility has a demonstrated history of submitting incomplete or deficient permit application information.

D) The facility has submitted incomplete or inadequate materials with the Notice of Intent (submitted pursuant to Section 705.301(a)(2)).

2) If the Agency determines that a facility is not eligible for the RCRA standardized permit, the Agency must inform the facility owner or operator that it must apply for an individual permit.

3) The Agency may require any facility that has a RCRA standardized permit to apply for and obtain an individual RCRA permit. Any interested person may petition the Agency to take action pursuant to this subsection (c)(3). Instances in which the Agency may require an individual RCRA permit include, but are not limited to, the following:

A) The facility is not in compliance with the terms and conditions of the standardized RCRA permit.

B) Circumstances have changed since the time the facility owner or operator applied for the RCRA standardized permit, so that the facility's hazardous waste management practices are no longer appropriately controlled under the RCRA standardized permit.

4) The Agency may require any facility authorized by a RCRA standardized permit to apply for an individual RCRA permit only if the Agency has notified the facility owner or operator in writing that an individual permit application is required. The Agency must include in this notice a brief statement of the reasons for its decision, a statement setting a deadline for the owner or operator to file the application, and a statement that, on the effective date of the individual RCRA permit, the facility's RCRA standardized permit automatically terminates. The Agency may grant additional time upon request from the facility owner or operator.

5) When the Agency issues an individual RCRA permit to an owner or operator otherwise subject to a standardized RCRA permit, the RCRA standardized permit for that facility will automatically cease to apply on the effective date of the individual permit.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.206, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). An owner or operator authorized to operate under a RCRA standardized permit that is required by the Agency to submit an application for an individual permit pursuant to this subsection (c) may appeal that Agency determination before the Board pursuant to Section 40 of the Act [415 ILCS 5/40] and 35 Ill. Adm. Code 101 and 105.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 705.303 Public Participation in the RCRA Standardized Permit Process

a) Requirements for public notices.

1) The Agency must provide public notice of its draft permit decision and must provide an opportunity for the public to submit comments and request a hearing on that decision. The Agency must provide the public notice to the following persons:

A) The applicant;

B) Any other agency that the Agency knows has issued or is required to issue a RCRA permit for the same facility or activity (including USEPA when the draft permit is prepared by the State);

C) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, Illinois Historic Preservation Agency, including any affected states;

D) Everyone on the facility mailing list developed according to the requirements in Section 705.163(a)(4); and

E) Any units of local government having jurisdiction over the area where the facility is proposed to be located and to each State agency having any authority under State law with respect to the construction or operation of the facility.

2) The Agency must issue the public notice according to the following methods:

A) Publication in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations;

B) In a manner constituting legal notice to the public under State law; and

C) Any other method reasonably calculated to give actual notice of the draft permit decision to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

3) The Agency must include the following information in the public notice:

A) The name and telephone number of the contact person at the facility.

B) The name and telephone number of the Agency's contact office, and a mailing address to which people may direct comments, information, opinions, or inquiries.

C) An address to which people may write to be put on the facility mailing list.

D) The location where people may view and make copies of the draft RCRA standardized permit and the Notice of Intent and supporting documents.

E) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location on the front page of the notice.

F) The date that the facility owner or operator submitted the Notice of Intent and supporting documents.

4) At the same time that the Agency issues the public notice pursuant to this Section, it must place the draft RCRA standardized permit (including both the uniform portion and the supplemental portion, if any), the Notice of Intent and supporting documents, and the statement of basis or fact sheet in a location accessible to the public in the vicinity of the facility or at the local Agency office.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.207, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Opportunities for public comment and hearing on a draft permit decision.

1) The public notice that the Agency issues pursuant to Section 705.303(a) must allow at least 45 days for interested persons to submit written comments on its draft permit decision. This time is referred to as the public comment period. The Agency must automatically extend the public comment period to the close of any public hearing pursuant to this subsection (b). The hearing officer may also extend the comment period by so stating at the hearing.

2) During the public comment period, any interested person may submit written comments on the draft permit and may request a public hearing. Any request for a public hearing must be submitted to the Agency in writing. The request for a public hearing must state the nature of the issues that the requestor proposes to raise during the hearing.

3) The Agency must hold a public hearing whenever it receives a written notice of opposition to a RCRA standardized permit and a request for a public hearing within the public comment period pursuant to subsection (b)(1) of this Section. The Agency may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

4) Whenever possible, the Agency must schedule a hearing pursuant to this subsection (b) at a location convenient to the nearest population center to the facility. The Agency must give public notice of the hearing at least 30 days before the date set for the hearing. (The Agency may give the public notice of the hearing at the same time it provides public notice of the draft permit, and the Agency may combine the two notices.)

5) The Agency must give public notice of the hearing according to the methods in Section 705.303(a)(1) and (a)(2). The hearing must be conducted according to the procedures in Section 705.182(b), (c), and (d).

6) In their written comments and during the public hearing, if held, interested persons may provide comments on the draft permit decision. These comments may include, but are not limited to, the facility's eligibility for the RCRA standardized permit, the tentative supplemental conditions proposed by the Agency, and the need for additional supplemental conditions.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.208, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Requirements for responding to comments.

1) At the time the Agency issues a final RCRA standardized permit, it must also respond to comments received during the public comment period on the draft permit. The Agency's response must do each of the following:

A) It must specify which additional conditions (*i.e.*, those in the supplemental portion), if any, the Agency changed in the final permit, and the reasons for each change.

B) It must briefly describe and respond to all significant comments on the facility's ability to meet the general requirements (*i.e.*, those terms and conditions in the uniform portion) and all significant comments on any additional conditions necessary to adequately protect human health and the environment that are raised during the public comment period or during the hearing.

C) It must make the comments and responses accessible to the public.

2) The Agency may request additional information from the facility owner or operator or inspect the facility if it needs additional information to adequately respond to significant comments or to make decisions about conditions that it may need to add to the supplemental portion of the RCRA standardized permit.

3) The Agency must include in the administrative record for its final permit decision any documents cited in the response to comments. If new points are raised or new material supplied during the public comment period, the Agency may document its response to those matters by adding new materials to the administrative record.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.209, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Appeal of a final RCRA standardized permit by an interested party in the permit process. An interested party may petition the Board for administrative review of the Agency's final permit decision, including the Agency's decision that the facility is eligible for the RCRA standardized permit, according to the procedures of Section 705.212. However, the terms and conditions of the uniform portion of the RCRA standardized permit are not subject to administrative review pursuant to this subsection (d).

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.210, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 705.304 Modifying a RCRA Standardized Permit

a) Permissible types of changes an owner or operator may make to its RCRA standardized permit. A facility owner or operator may make a routine change, a routine change with prior Agency approval, or a significant change. For the purposes of this subsection (a), the following definitions apply:

"Routine change" is any change to the RCRA standardized permit that qualifies as a Class 1 permit modification (without prior Agency approval) pursuant to Appendix A to 35 Ill. Adm. Code 703.

"Routine change with prior Agency approval" is a change to the RCRA standardized permit that would qualify as a class 1 modification with prior agency approval, or a Class 2 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703.

"Significant change" is any change to the RCRA standardized permit that falls into one of the following categories:

It qualifies as a Class 3 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703;

It is not explicitly identified in Appendix A to 35 Ill. Adm. Code 703; or

It amends any terms or conditions in the supplemental portion of the RCRA standardized permit.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.211, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Procedures to make routine changes.

1) An owner or operator can make routine changes to the RCRA standardized permit without obtaining approval from the Agency. However, the owner or operator must first determine whether the routine change it will make amends the information it submitted to the Agency pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit.

2) If the routine changes that the owner or operator makes amend the information it submitted pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit, then before the owner or operator makes the routine changes it must do both of the following:

A) It must submit to the Agency the revised information pursuant to 35 Ill. Adm. Code 703.351(b)(1); and

B) It must provide notice of the changes to the facility mailing list and to State and local governments in accordance with the procedures in Section 705.163(a)(4) and (a)(5).

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.212, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Procedures for routine changes with prior Agency approval.

1) Routine changes to the RCRA standardized permit may only be made with the prior written approval of the Agency.

2) The owner or operator must also follow the procedures in subsections (b)(2)(A) and (b)(2)(B) of this Section.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.213, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Procedures the owner or operator must follow to make significant changes.

1) The owner or operator must first provide notice of and conduct a public meeting.

A) Public meeting. The owner or operator must hold a meeting with the public to solicit questions from the community and inform the community of its proposed modifications to its hazardous waste management activities. The owner or operator must post a sign-in sheet or otherwise provide a voluntary opportunity for people attending the meeting to provide their names and addresses.

B) Public notice. At least 30 days before the owner or operator plans to hold the meeting, it must issue a public notice in accordance with 35 Ill. Adm. Code 703.191(d).

2) After holding the public meeting, the owner or operator must submit a modification request to the Agency that provides the following information:

A) It must describe the exact changes that the owner or operator wants and whether the changes are to information that the owner or operator provided pursuant to 35 Ill. Adm. Code 703.351(b) or to terms and conditions in the supplemental portion of its RCRA

standardized permit;

B) It must explain why the modification is needed; and

C) It must include a summary of the public meeting held pursuant to subsection (d)(1) of this Section, along with the list of attendees and their addresses and copies of any written comments or materials they submitted at the meeting.

3) Once the Agency receives an owner's or operator's modification request, it must make a tentative determination within 120 days to approve or disapprove the request. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency should inform the permit applicant during the initial 120-day review period.

4) After the Agency makes its tentative determination, the procedures in Sections 705.302(b) and 705.303 for processing an initial request for coverage under the RCRA standardized permit apply to making the final determination on the modification request.

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.214, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

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

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

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720.102 Availability of Information; Confidentiality of Information
720.103 Use of Number and Gender
720.104 Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

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720.110 Definitions
720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in

R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.101 Purpose, Scope, and Applicability

a) This Part provides definitions of terms, general standards, and overview information applicable to 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, 738, and 739.

b) In this Part:

1) Section 720.102 sets forth the rules that the Board and the Agency will use in making information it receives available to the public and sets forth the requirements that a generator, transporter, or owner or operator of a treatment, storage, or disposal facility must follow to assert claims of business confidentiality with respect to information that is submitted to the Board or the Agency ~~under~~ for the purposes of compliance with 35 Ill. Adm. Code 720 through ~~725 and~~ 728, 733, 738, and 739.

2) Section 720.103 establishes rules of grammatical construction for for the purposes of compliance with 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, 738, and 739.

3) Section 720.110 defines terms that are used in 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, 738, and 739.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 720.103 Use of Number and Gender

As used in 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, 738, and 739:

a) Words in the masculine gender also include the feminine and neuter genders;

b) Words in the singular include the plural; and

c) Words in the plural include the singular.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 720.104 Electronic Reporting

a) Scope and Applicability.

1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

A) To USEPA directly under Title 40 of the Code of Federal Regulations; or

B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.

2) Electronic document submission under this Section can occur only as follows:

A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

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

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

ii) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or

the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board or the Agency may use that system until USEPA disapproves its use in writing; or

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

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

A) Any document submitted via fascimile;

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

C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.

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

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

b) Definitions. For the purposes of this Section, terms will have the meaning

attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).

c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:

1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and

2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) of this Section.

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

d) Procedures for submission of electronic documents in lieu of paper documents to the Board or the Agency.

1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].

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

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

e) Effects of submission of an electronic document in lieu of paper documents.

1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.

3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

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

f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

1) The Administrative Procedure Act [5 ILCS 100];

2) The Freedom of Information Act [5 ILCS 140];

3) The State Records Act [5 ILCS 160];

4) The Electronic Commerce Security Act [5 ILCS 175];

5) The Environmental Protection Act [415 ILCS 5];

6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) of this Section will create any right or privilege to submit any document as an electronic document.

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

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, 738, and 739 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion.")

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

"Battery" means a device that consists of one or more electrically connected electrochemical cells ~~which~~ that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

Boiler physical characteristics.

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.); or

Boiler by designation. The unit is one that the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed portion" means that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste ~~under~~ pursuant to the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means either of the following entities:

A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

The facility has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703, and 705;

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (2005);

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (2005); or

The facility is regulated ~~under~~ pursuant to 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

[MM1]

Effective September 5, 2006, a generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Dioxins and furans" or "D/F" means tetra, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water runon to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device of which the following is true:

It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

"EPA region" or "USEPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II: New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII: Nebraska, Kansas, Missouri, and Iowa.

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands.

Region X: Washington, Oregon, Idaho, and Alaska.

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

A continuous on-site, physical construction program had begun; or

The owner or operator had entered into contractual obligations that could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and which was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either of the following is true:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations that cannot be canceled or modified without substantial loss for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response

activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

"Facility" means the following:

> All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).
>
> For the purpose of implementing corrective action ~~under~~ pursuant to 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action ~~under~~ pursuant to RCRA section 3008(h).
>
> Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation and the Government Printing Office.

"Federal, State, and local approvals or permits necessary to begin physical

construction" means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities ~~under~~ pursuant to 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste constituent" means a constituent that caused the hazardous waste to be listed in Subpart D of 35 Ill. Adm. Code 721, or a constituent listed in 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility that is not operated after November 19, 1980. (See also "active portion" and "closed portion.")

"Incinerator" means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are

true of the facility:

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste that is unsuitable for the following:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire, or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

(See Appendix E to 35 Ill. Adm. Code 725 for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

“Individual generation site” means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

“Infrared incinerator” means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

“Inground tank” means a device meeting the definition of tank whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

“In operation” refers to a facility that is treating, storing, or disposing of hazardous waste.

“Injection well” means a well into which fluids are being injected. (See also “underground injection.”)

“Inner liner” means a continuous layer of material placed inside a tank or container that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

“Installation inspector” means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

“International shipment” means the transportation of hazardous waste into or out of the jurisdiction of the United States.

“Lamp” or “universal waste lamp” means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

“Land treatment facility” means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

“Landfill” means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

“Landfill cell” means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

“LDS” means leak detection system.

“Leachate” means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

“Liner” means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward

or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

"Manifest" means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A) originated and signed by the generator or offeror that contains the information required by Subpart B of 35 Ill. Adm. Code 722 and the applicable requirements of 35 Ill. Adm. Code 722 through ~~725~~ 727.

[MM2]

"Manifest document number" means, until September 5, 2006, the USEPA twelve digit identification number assigned to the generator plus a unique five-digit document number assigned to the manifest by the generator for recording and reporting purposes.

[MM3]

"Manifest tracking number" means, effective September 5, 2006, the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

"Mercury-containing equipment" means ~~mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.~~ a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

~~BOARD NOTE: The definition of "mercury-containing equipment" was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).~~

~~*"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays.*~~ ~~[415 ILCS 5/3.283]~~

~~BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (see P.A. 93-964, effective August 20, 2004).~~

~~*"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.* [415 ILCS 5/3.284]~~
~~BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (see P.A. 93-964, effective August 20, 2004).~~

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards ~~under~~ pursuant to 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit ~~under~~ pursuant to 35 Ill. Adm. Code 703.231; or staging pile.

"Movement" means hazardous waste that is transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility that began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility.")

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also "existing tank system.")

"Onground tank" means a device meeting the definition of tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

> Control of combustion air to maintain adequate temperature for efficient combustion;
>
> Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
>
> Control of emission of the gaseous combustion products.
>
> (See also "incineration" and "thermal treatment.")

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person that owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with ~~the requirements of~~ 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug." This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

"Plasma arc incinerator" means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,

container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

"RCRA standardized permit" means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

"Regional Administrator" means the Regional Administrator for the USEPA ~~Region~~ region in which the facility is located or the Regional Administrator's designee.

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action ~~under~~ pursuant to 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse

solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) that can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC code" means "Standard Industrial Classification code," as assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication "Standard Industrial Classification Manual," incorporated by reference in Section 720.111(a).

"Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

"Staging pile" means an accumulation of solid, non-flowing "remediation waste" (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to ~~the requirements of~~ 35 Ill. Adm. Code 724.654.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" or "impoundment" means a facility or part of a facility that is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials) that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetra-chlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning.")

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with ~~the requirements of~~ 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which is constructed and operated in a manner that prevents the release of any hazardous

waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

"Treatability study" means the following:

A study in which a hazardous waste is subjected to a treatment process to determine the following:

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes; and

The characteristics and volumes of residuals from a particular treatment process;

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or

reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well.")

"Underground tank" means a device meeting the definition of tank whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"Universal waste" means any of the following hazardous wastes that are managed ~~under~~ pursuant to the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

Lamps, as described in 35 Ill. Adm. Code 733.105~~; and~~.

~~Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106 733.104.~~
~~BOARD NOTE: Mercury-containing equipment was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (see P.A. 93-964, effective August 20, 2004).~~

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste

handler, to a destination facility, or to a foreign destination.

"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" ~~or "U.S. EPA"~~ means the United States Environmental Protection Agency.

"Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device of which the following is true:

It is part of a wastewater treatment facility that has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310;

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection.")

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through ~~726,~~ 728, 730, 733, 738, and 739:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASTM D 2267-88, “Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography,” approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry," USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.
BOARD NOTE: EPA-821/R-98-002 is also available on the Internet for free download as a PDF document from the USEPA website at: www.epa.gov/waterscience/methods/16640514.pdf.

"Methods for Chemical Analysis of Water and Wastes," Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.
BOARD NOTE: EPA-600/4-79-020 is also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities," August 1977, EPA-530/SW-611, NTIS

document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources," October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206. BOARD NOTE: EPA-454/R-92-019 is also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test),

USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

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

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

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

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

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

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

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

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

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

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

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

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

BOARD NOTE: EPA-530/SW-846 is also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

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

OECD "Amber List of Wastes," Appendix 4 to the OECD Council Decision C(92)39/Final (March 30, 1992, revised May 1993) (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Amber Tier," Section IV of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Annex to OECD Council Decision C(88)90/Final, as amended by C(94)152/Final (revised July 1994), referenced in 35 Ill. Adm. Code 722.187.

OECD "Green List of Wastes," Appendix 3 to the OECD Council Decision C(92)39/Final (March 30, 1992, revised May 1994) (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations~~)~~), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Green Tier," Section III of the annex to the OECD

Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

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

OECD "Red List of Wastes," Appendix 5 to the OECD Council Decision C(92)39/Final (March 30, 1992, ~~revised~~ revised May 1993), USEPA-approved for 35 Ill. Adm. Code 722.189, referenced in 35 Ill. Adm. Code 722.181.

OECD "Red Tier," Section V of the annex to the OECD Council Decision C(92)39/Final (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) (revised May 1993), referenced in 35 Ill. Adm. Code 722.181.

Table 2.B of the Annex of OECD Council Decision C(88)90(Final) (May 27, 1988), amended by C(94)152/Final (July 28, 1994), "Decision of the Council on Transfrontier Movements of Hazardous Wastes," referenced in 35 Ill. Adm. Code 722.181 and 722.187.

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

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

USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.9-STD), as in effect in July 1999, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

"Requisition ~~tracking form~~ Tracking Form" (DD Form 1348), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

"The Signature and Tally Record" (DD Form 1907), as in effect on

November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

"Special Instructions for Motor Vehicle Drivers" (DD Form 836), as in effect on November 8, 1995, referenced in 35 Ill. Adm. Code 726.303.

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

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

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

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

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.
BOARD NOTE: EPA-454/R-92-019 is also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address:
www.epa.gov/scram001/guidance/guide/scrng.wpd.

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

"EPA RCRA Delisting Program--Guidance Manual for the Petitioner," March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1109), as in effect on November 8, 1995, referenced in Section 726.303.

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

10 CFR 20.2006 ~~(2005)~~ (2006) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 702.110, 726.425, and 726.450.

Table II, column 2 in Appendix B to 10 CFR 20 ~~(2005)~~ (2006) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 ~~(2005)~~ (2006) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 ~~(2005)~~ (2006) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 ~~(2005)~~ (2006) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 (2005), as amended at 70 Fed. Reg. 74669 (December 16, 2005) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.2, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (How Does This Part Provide for Electronic Reporting?), referenced in Section 720.104.

40 CFR 3.3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2005) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2005), as amended at 70 Fed. Reg. 68218 (November 9, 2005) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.
BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986,

USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 (2005) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2005), as amended at 70 Fed. Reg. 51266 (Aug. 30, 2005), 70 Fed. Reg. 55568 (Sep. 22, 2005), 70 Fed. Reg. 59848 (Oct. 13, 2005), 70 Fed. Reg. 73138 (Dec. 9, 2005), 70 Fed. Reg. 74679 (Dec. 16, 2005), and 70 Fed. Reg. 74870 (Dec. 16, 2005) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2005) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60 (2005) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 25E (Determination of Vapor Phase Organic

Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 725.984.

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

40 CFR 61 (2005), as amended at 70 Fed. Reg. 73138 (Dec. 9, 2005) and 70 Fed. Reg. 73595 (Dec. 13, 2005) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2005) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61 (2005) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2005), as amended at 70 Fed. Reg. 38554 (July 1, 2005), 70 Fed. Reg. 38780 (July 6, 2005), 70 Fed. Reg. 39426 (July 8, 2005), 70 Fed. Reg. 39662 (July 11, 2005), 70 Fed. Reg. 40672 (July 14, 2005), 70 Fed. Reg. 44285 (Aug. 2, 2005), 70 Fed. Reg. 46684 (Aug. 10, 2005), 70 Fed. Reg. 50118 (Aug. 25, 2005), 70 Fed. Reg. 51269 (Aug. 30, 2005), 70 Fed. Reg. 57513 (Oct. 3, 2005), 70 Fed. Reg. 59402 (Oct. 12, 2005), 70 Fed. Reg. 59848 (Oct. 13, 2005), 70 Fed. Reg. 66280 (Nov. 2, 2005), 70 Fed. Reg. 73138 (Dec. 9, 2005), 70 Fed. Reg. 73595 (Dec. 13, 2005), 70 Fed. Reg. 75042 (Dec. 19, 2005), 70 Fed. Reg. 75047 (Dec. 19, 2005), 70 Fed. Reg. 75320 (Dec. 19, 2005), 70 Fed. Reg. 75924 (Dec. 21, 2005), 70 Fed. Reg. 76918 (Dec. 28, 2005), and 71 Fed. Reg. 14655 (Mar. 23, 2006) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 725.933, 725.964, and 725.980.

Subpart RR of 40 CFR 63 (2005) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.982, 724.984, 724.985, 725.983, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63 (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005), 70 Fed. Reg. 75042 (Dec. 19, 2005), and 71 Fed. Reg. 14655 (Mar. 23, 2006) (National Emission Standards for Hazardous Air

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

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2005) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63 (2005) (Determination of the Fraction Biodegraded (Fbio) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2005) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2005), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2005) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (2005) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 258 (2005), as amended at 70 Fed. Reg. 44150 (Aug. 1, 2005) and 70 Fed. Reg. 59848 (Oct. 13, 2005) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21 (2005) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

Appendix I to 40 CFR 260 (2005) (Overview of Subtitle C Regulations), referenced in Appendix A to 35 Ill. Adm. Code 720.

Appendix III to 40 CFR 261 (2005) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 (2005) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 (2005) (Special Manifest Requirements), and as amended at 70 Fed. Reg. 10776 (March 4, 2005), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 (2005) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 (2005) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 (2005) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262 (2005) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), and as amended at 70 Fed. Reg. 10776 (March 4, 2005), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (2005) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264 (2005) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2005) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2005) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 (2005) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306 and 724.118.

Appendix I to 40 CFR 265 (2005) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2005) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2005) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2005) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 (2005) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

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

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

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

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

40 CFR 270.5 (2005) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761 (2005) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 (2005) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 (2005) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2005) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2005) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 ~~(2004)~~ (2005) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 20018 (July 28, 2005) and 70 Fed. Reg. 73156 (Dec. 9, 2005) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 ~~(2004)~~ (2005) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 ~~(2004)~~ (2005) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304 ~~(2004)~~ (2005) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172 ~~(2004)~~ (2005) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 722.130, 724.986, 724.416,

725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 ~~(2004)~~ (2005) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 ~~(2004)~~ (2005) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, and 725.987.

49 CFR 173.28 ~~(2004)~~ (2005) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 ~~(2004)~~ (2005) (Class 1~~—~~—Definitions), referenced in 35 Ill. Adm. Code 721.124.

49 CFR 173.54 ~~(2004)~~ (2005) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.124.

49 CFR 173.115 ~~(2004)~~ (2005) (Class 2, Divisions 2.1, 2.2, and 2.3~~—~~— Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 ~~(2004)~~ (2005) (Class 5, Division 5.1—Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 178 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 ~~(2004)~~ (2005), as amended at 70 Fed. Reg. 73156 (Dec. 9, 2005) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014), as amended through January 23, 2000, referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j)), as amended through January 2, 2001, referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1412 of the Department of Defense Authorization Act of 1986, Pub. L. 99-145 (50 USC 1521(j)(1)), as amended through January 23, 2000, referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.120 Rulemaking

a) Any person may petition the Board to adopt as State regulations rules that are identical in substance with newly-adopted federal amendments or regulations. The petition must take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 102. The proposal must include a listing of all amendments to 40 CFR 260 through ~~266,~~ 268, 273, or 279 that have been made since the last preceding amendment or proposal to amend 35 Ill. Adm. Code 720 through ~~726,~~ 728, 733, or 739, pursuant to Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)].

b) Any person may petition the Board to adopt amendments or additional regulations not identical in substance with federal regulations. Such proposal must conform to 35 Ill. Adm. Code 102 and Section 22.4(b) or 22.4(c) and Title VII of the Environmental Protection Act [415 ILCS 5/22.4(b) or (c) and Title VII].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

a) The Agency may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2)(D) should be regulated ~~under~~ pursuant to 35 Ill. Adm. Code 721.106(b) and (c) rather than ~~under~~ pursuant to the provisions of Subpart F of 35 Ill. Adm. Code 726. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Agency must consider the following factors:

1) The types of materials accumulated or stored and the amounts accumulated or stored;

2) The method of accumulation or storage;

3) The length of time the materials have been accumulated or stored before being reclaimed;

4) Whether any contaminants are being released into the environment, or are likely to be so released; and

5) Other relevant factors.

b) The procedures for this decision are set forth in Section 720.141.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section
721.101 Purpose and Scope
721.102 Definition of Solid Waste
721.103 Definition of Hazardous Waste

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

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

SUBPART D: LISTS OF HAZARDOUS WASTE

	Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
Table D	Wastes Excluded by the Board by Adjusted Standard
721.Appendix J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.Appendix Y	Table to Section 721.138
721.Appendix Z	Table to Section 721.102

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992,

effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.101 Purpose and Scope

a) This Part identifies those solid wastes that are subject to regulation as hazardous wastes under 35 Ill. Adm. Code 702, 703, ~~705,~~ and 722 through ~~725, and~~ 728, and which are subject to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.). In this Part:

1) Subpart A of this Part defines the terms "solid waste" and "hazardous waste," identifies those wastes that are excluded from regulation under 35 Ill. Adm. Code 702, 703, ~~705,~~ and 722 through ~~725, and~~ 728, and establishes special management requirements for hazardous waste produced by conditionally exempt small quantity generators and hazardous waste that is recycled.

2) Subpart B of this Part sets forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.

3) Subpart C of this Part identifies characteristics of hazardous wastes.

4) Subpart D of this Part lists particular hazardous wastes.

b) Limitations on definition of solid waste.

1) The definition of solid waste contained in this Part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles or rubber) that are not otherwise hazardous wastes and that are recycled.

2) This Part identifies only some of the materials that are solid wastes and hazardous wastes under Sections 1004(5), 1004(27) and 7003 of RCRA. A material that is not defined as a solid waste in this Part, or is not a hazardous waste identified or listed in this Part, is still a hazardous waste for purposes of those Sections if, in the case of Section 7003 of RCRA, the statutory elements are established.

c) For the purposes of Sections 721.102 and 721.106 the following definitions apply:

1) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

2) "Sludge" has the same meaning used in 35 Ill. Adm. Code 720.110.

3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

5) A material is "used or reused" if either of the following is true:

   A) It is employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

   B) It is employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).

6) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars) that when worn or superfluous can be recycled.

7) A material is "recycled" if it is used, reused or reclaimed.

8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same

way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

10) "Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses and related materials that have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (Section 721.104(a)(13))).

11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.

12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries, and it includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial or new scrap metal.

d) The Agency has inspection authority pursuant to Section 3007 of RCRA and Section 4 of the Environmental Protection Act [415 ILCS 5/4].

e) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.103 Definition of Hazardous Waste

a) A solid waste, as defined in Section 721.102, is a hazardous waste if the following is true of the waste:

1) It is not excluded from regulation as a hazardous waste ~~under~~ pursuant to Section 721.104(b); and

2) It meets any of the following criteria:

A) It exhibits any of the characteristics of hazardous waste identified in Subpart C of this Part. However, any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded ~~under~~ pursuant to Section 721.104(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste ~~under~~ pursuant to Subpart C of this Part is a hazardous waste only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred, or if the mixture continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the toxicity characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentration for any contaminant listed in Section 721.124 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture.

B) It is listed in Subpart D of this Part and has not been excluded from the lists in Subpart D of this Part ~~under~~ pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

C) This subsection (a)(2)(B) corresponds with 40 CFR 261.3(a)(2)(iii), which USEPA removed and marked as "reserved" at 66 Fed. Reg. 27266 (May 16, 2001). This statement maintains structural consistency with the federal regulations.

D) It is a mixture of solid waste and one or more hazardous wastes listed in Subpart D of this Part and has not been excluded from this subsection (a)(2) ~~under~~ pursuant to 35 Ill. Adm. Code 720.120 and 720.122, subsection (g) of this Section, or subsection (h) of this Section; however, the following mixtures of solid wastes and hazardous wastes listed in Subpart D of this Part are not hazardous wastes (except by application of subsection (a)(2)(A) or (a)(2)(B) of this Section) if the generator demonstrates that the mixture consists of wastewater the discharge of which is subject to regulation under either 35 Ill. Adm. Code 309 or 310 (including wastewater at facilities that have eliminated the discharge of wastewater) and the following is true of the waste:

i) It is one or more of the following solvents listed in Section 721.131: benzene, carbon tetrachloride, tetrachloro-ethylene, trichloroethylene or the scrubber waters derived from the combustion of these spent solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million, or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 1 part per million on an average weekly basis. Any facility that uses benzene as a solvent and claims this exemption must use an aerated biological wastewater treatment system and must use only lined surface impoundments or tanks prior to secondary clarification in the wastewater treatment system. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(i) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected;

ii) It is one or more of the following spent solvents listed in Section 721.131: methylene chloride, 1,1,1-trichloro-ethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2- ethoxyethanol, or the scrubber waters derived from the combustion of these spent solvents, provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million, or the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 25 parts per million on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(ii) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected;

iii) It is one of the following wastes listed in Section 721.132, provided that the wastes are discharged to the refinery oil

recovery sewer before primary oil/water/solids separation: heat exchanger bundle cleaning sludge from the petroleum refining industry (USEPA hazardous waste no. K050), crude oil storage tank sediment from petroleum refining operations (USEPA hazardous waste number K169), clarified slurry oil tank sediment or in-line filter/separation solids from petroleum refining operations (USEPA hazardous waste number K170), spent hydrotreating catalyst (USEPA hazardous waste number K171), and spent hydrorefining catalyst (USEPA hazardous waste number K172);

iv) It is a discarded hazardous waste, commercial chemical product or chemical intermediate listed in Section 721.121, 721.132, or 721.133 arising from de minimis losses of these materials ~~from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process~~. For purposes of this subsection (a)(2)(D)(iv), "de minimis" losses ~~include~~ are inadvertent releases to a wastewater treatment system, including those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing. Any manufacturing facility that claims an exemption for de minimis quantities of a waste listed in Section 721.131 or 721.132, or any nonmanufacturing facility that claims an exemption for de minimis quantities of wastes listed in Subpart D of this Part, must either have eliminated the discharge of wastewaters or have included in its federal Clean Water Act (33 USC 1251 et seq.) permit application or wastewater pretreatment submission to the Agency or the wastewater pretreatment Control Authority pursuant to 35 Ill. Adm. Code 307 of the constituents for which each waste was listed (in Appendix G of this Part); and the constituents in Table T to 35 Ill. Adm. Code 728 for which each waste has a treatment standard (*i.e.*, land disposal restriction constituents). A facility is eligible to claim the exemption once the Agency or Control Authority has been notified of possible de minimis releases via the Clean

Water Act permit application or the wastewater pretreatment submission. A copy of the Clean Water Act permit application or the wastewater pretreatment submission must be placed in the facility's on-site files;

v) It is wastewater resulting from laboratory operations containing toxic (T) wastes listed in Subpart D of this Part, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system or provided that the wastes' combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation;

vi) It is one or more of the following wastes listed in Section 721.132: wastewaters from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 5 parts per million on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be

monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(vi) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

vii) It is wastewater derived from the treatment of one or more of the following wastes listed in Section 721.132: organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter, or the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at a facility that is subject to regulation under the federal Clean Air Act new source performance standards or national emission standards for hazardous air pollutants of 40 CFR 60, 61, or 63 or at a facility that is subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions) does not exceed 5 milligrams per liter on an average weekly basis. A facility that chooses to measure concentration levels must file a copy of its sampling and analysis plan with the Agency. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once it receives confirmation that the sampling and analysis plan has been received by the Agency. The Agency must reject the sampling and analysis plan if it determines that the

sampling and analysis plan fails to include the information required by this subsection (a)(2)(D)(vii) or that the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Agency rejects the sampling and analysis plan, or if the Agency determines that the facility is not following the sampling and analysis plan, the Agency must notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected.

E) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of this Part. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of this Part).

i) The rebuttable presumption does not apply to a metalworking oil or fluid containing chlorinated paraffins if it is processed through a tolling arrangement, as described in 35 Ill. Adm. Code 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to a metalworking oil or fluid if such an oil or fluid is recycled in any other manner, or disposed.

ii) The rebuttable presumption does not apply to a used oil contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to a used oil contaminated with CFCs that have been mixed with used oil from a source other than a refrigeration unit.

b) A solid waste that is not excluded from regulation ~~under~~ pursuant to subsection (a)(1) of this Section becomes a hazardous waste when any of the following events occur:

1) In the case of a waste listed in Subpart D of this Part, when the waste first meets the listing description set forth in Subpart D of this Part.

2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in Subpart D of this Part is first added to the solid waste.

3) In the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in Subpart C of this Part.

c) Unless and until it meets the criteria of subsection (d) of this Section, a hazardous waste will remain a hazardous waste.

BOARD NOTE: This subsection (c) corresponds with 40 CFR 261.3(c)(1). The Board has codified 40 CFR 261.3(c)(2) at subsection (e) of this Section.

d) Any solid waste described in subsection (e) of this Section is not a hazardous waste if it meets the following criteria:

1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in Subpart C of this Part. (However, wastes that exhibit a characteristic at the point of generation may still be subject to ~~the requirements of~~ 35 Ill. Adm. Code 728, even if they no longer exhibit a characteristic at the point of land disposal.)

2) In the case of a waste that is a listed waste ~~under~~ pursuant to Subpart D of this Part, a waste that contains a waste listed ~~under~~ pursuant to Subpart D of this Part, or a waste that is derived from a waste listed in Subpart D of this Part, it also has been excluded from subsection (e) of this Section ~~under~~ pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

e) Specific inclusions and exclusions.

1) Except as otherwise provided in subsection (e)(2), (g), or (h) of this Section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off), is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

2) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste:

A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).

B) Wastes from burning any of the materials exempted from regulation by Section 721.106(a)(3)(C) and (a)(3)(D).

C) Nonwastewater residues, such as slag, resulting from high temperature metal recovery (HTMR) processing of K061, K062, or F006 waste in the units identified in this subsection (e)(2) that are disposed of in non-hazardous waste units, provided that these residues meet the generic exclusion levels identified in the tables in this subsection (e)(2)(C) for all constituents and the residues exhibit no characteristics of hazardous waste. The types of units identified are rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or the following types of industrial furnaces (as defined in 35 Ill. Adm. Code 720.110): blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces); and other furnaces designated by the Agency pursuant to that definition.

i) Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and when the process or operation generating the waste changes.

ii) Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements. The generic exclusion levels are the following:

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues:

Constituent	Maximum for any single composite sample (mg/ℓ)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020

Vanadium	1.26
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues:

Constituent	Maximum for any single composite sample (mg/ℓ)
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

iii) A one-time notification and certification must be placed in the facility's files and sent to the Agency (or, for out-of-State shipments, to the appropriate Regional Administrator of USEPA or the state agency authorized to implement federal 40 CFR 268 requirements) for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents, which do not exhibit any characteristics, and which are sent to RCRA Subtitle D (municipal solid waste landfill) units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes or if the RCRA Subtitle D unit receiving the waste changes. However, the generator or treater need only notify the Agency on an annual basis if such changes occur. Such notification and certification should be sent to the Agency by the end of the calendar year, but no later than December 31. The notification must include the following information: the name and address of the ~~nonhazardous~~ non-hazardous waste management unit receiving the waste shipment; the USEPA hazardous waste number and treatability group at the initial point of generation; and the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an

authorized representative and must state as follows:

"I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

D) Biological treatment sludge from the treatment of one of the following wastes listed in Section 721.132: organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K156) and wastewaters from the production of carbamates and carbamoyl oximes (USEPA Hazardous Waste No. K157).

E) Catalyst inert support media separated from one of the following wastes listed in Section 721.132: spent hydrotreating catalyst (USEPA hazardous waste number K171) and spent hydrorefining catalyst (USEPA hazardous waste number K172).

BOARD NOTE: This subsection (e) would normally correspond with 40 CFR 261.3(e), a subsection that has been deleted and marked "reserved" by USEPA. Rather, this subsection (e) corresponds with 40 CFR 261.3(c)(2), which the Board codified here to comport with codification requirements and to enhance clarity.

f) Notwithstanding subsections (a) through (e) of this Section and provided the debris, as defined in 35 Ill. Adm. Code 728.102, does not exhibit a characteristic identified at Subpart C of this Part, the following materials are not subject to regulation under 35 Ill. Adm. Code 702, 703, 720, 721 to 726, or 728:

1) Hazardous debris as defined in 35 Ill. Adm. Code 728.102 that has been treated using one of the required extraction or destruction technologies specified in Table F to 35 Ill. Adm. Code 728; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

2) Debris, as defined in 35 Ill. Adm. Code 728.102, that the Agency, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

g) Exclusion of certain wastes listed in Subpart D of this Part solely because they exhibit a characteristic of ignitability, corrosivity, or reactivity.

1) A hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more characteristics of ignitability, as defined under Section 721.121; corrosivity, as defined under Section 721.122; or reactivity, as defined under Section 721.123 is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in Subpart C of this Part.

2) The exclusion described in subsection (g)(1) of this Section also pertains to the following:

A) Any mixture of a solid waste and a hazardous waste listed in Subpart D of this Part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under subsection (a)(2)(D) of this Section; and

B) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in Subpart D of this Part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under subsection (e)(1) of this Section.

3) Wastes excluded ~~under~~ pursuant to this subsection (g) are subject to 35 Ill. Adm. Code 728 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

h) Eligible radioactive mixed waste.

1) Hazardous waste containing radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of Subpart N of 35 Ill. Adm. Code 726 (i.e., it is “eligible radioactive mixed waste”).

2) The exemption described in subsection (h)(1) of this Section also pertains to the following:

A) Any mixture of a solid waste and an eligible radioactive mixed waste; and

B) Any solid waste generated from treating, storing, or disposing of an eligible radioactive mixed waste.

3) Waste exempted ~~under~~ pursuant to this subsection (h) must meet the eligibility criteria and specified conditions in 35 Ill. Adm. Code 726.325 and 726.330 (for storage and treatment) and in 35 Ill. Adm. Code 726.410 and 726.415 (for transportation and disposal). Waste that fails to satisfy these eligibility criteria and conditions is regulated as hazardous waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.104 Exclusions

a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:

1) Sewage.

A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and

B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.

2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.

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

3) Irrigation return flows.

4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.

6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).

7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).

8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:

A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.

9) Wood preserving wastes.

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

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

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

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

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

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

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

v) Prior to operating pursuant to this exclusion, the plant

owner or operator submits a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

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

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

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

A) Oil-bearing hazardous secondary materials (i.e., sludges, by-

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

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

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

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

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

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

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

16) Comparable fuels or comparable syngas fuels (i.e., comparable or syngas fuels) that meet the requirements of Section 721.138.

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

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

B) The spent material is not accumulated speculatively;

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

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

degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.

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

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

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

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

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

F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing

and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

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

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

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

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

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

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

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

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

ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way ~~which~~ that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A) The fertilizers meet the following contaminant limits:

i) For metal contaminants:

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

ii) For dioxin contaminants, the fertilizer must contain no

more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

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

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

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

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

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

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

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

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

b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:

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

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

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

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

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

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

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

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

A) The growing and harvesting of agricultural crops, or

B) The raising of animals, including animal manures.

3) Mining overburden returned to the mine site.

4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil

fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

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

6) Chromium wastes.

A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:

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

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

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

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

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

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

iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair

pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;

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

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

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

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

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

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

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

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

i) Slag from primary copper processing;

ii) Slag from primary lead processing;

iii) Red and brown muds from bauxite refining;

iv) Phosphogypsum from phosphoric acid production;

v) Slag from elemental phosphorus production;

vi) Gasifier ash from coal gasification;

vii) Process wastewater from coal gasification;

viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

ix) Slag tailings from primary copper processing;

x) Fluorogypsum from hydrofluoric acid production;

xi) Process wastewater from hydrofluoric acid production;

xii) Air pollution control dust or sludge from iron blast furnaces;

xiii) Iron blast furnace slag;

xiv) Treated residue from roasting and leaching of chrome ore;

xv) Process wastewater from primary magnesium processing by the anhydrous process;

xvi) Process wastewater from phosphoric acid production;

xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;

xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;

xix) Chloride processing waste solids from titanium tetrachloride production; and

xx) Slag from primary zinc production.

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

i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and

ii) The owner or operator legitimately reclaims the secondary mineral processing materials.

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

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

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

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

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

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

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

B) Hot-draining and crushing;

C) Dismantling and hot-draining; or

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

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

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

A) The following conditions must be fulfilled:

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

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

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

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

iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to

regulation under section 307(b) or 402 of the federal Clean Water Act.

B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, or K178 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~725, and~~ 728 or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.

d) Samples.

1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728. The sample qualifies when it fulfills one of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

e) Treatability study samples.

1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

A) The sample is being collected and prepared for transportation by

the generator or sample collector;

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

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

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

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

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

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

i) The transportation of each sample shipment complies with U.S. Department of Transportation (USDOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

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

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

i) Copies of the shipping documents;

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

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

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

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

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

B) In response to requests for authorization to ship, store, and conduct

treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

   B) The date the shipment was received;

   C) The quantity of waste accepted;

   D) The quantity of "as received" waste in storage each day;

   E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

   F) The date the treatability study was concluded;

   G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.

8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

9) The facility prepares and submits a report to the Agency by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

   A) The name, address, and USEPA identification number of the facility conducting the treatability studies;

   B) The types (by process) of treatability studies conducted;

   C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);

   D) The total quantity of waste in storage each day;

E) The quantity and types of waste subjected to treatability studies;

F) When each treatability study was conducted; and

G) The final disposition of residues and unused sample from each treatability study.

10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.

11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.

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

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

"Permit" means any of the following:

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

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

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

a) A generator is a conditionally exempt small quantity generator in a calendar

month if it generates no more than 100 kilograms of hazardous waste in that month.

b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act, provided the generator complies with ~~the requirements of~~ subsections (f), (g), and (j) of this Section.

c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:

1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;

2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;

3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);

4) Hazardous waste that is used oil managed ~~under the requirements of~~ pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;

5) Hazardous waste that is spent lead-acid batteries managed ~~under the requirements of~~ pursuant to Subpart G of 35 Ill. Adm. Code 726; and

6) Hazardous waste that is universal waste managed ~~under~~ pursuant to Section 721.109 and 35 Ill. Adm. Code 733.

d) In determining the quantity of hazardous waste it generates, a generator need not include the following:

1) Hazardous waste when it is removed from on-site storage;

2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;

3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act.

1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e); or

2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131, 721.132, or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of greater than 1,000 kg of non-acute hazardous waste in a calendar month.

f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1) 35 Ill. Adm. Code 722.111.

2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through ~~726, and~~ 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.

3) A conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;

C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;

E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to ~~the requirements of~~ federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

F) The facility is one that fulfills one of the following conditions:

i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or

ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or

G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to ~~the requirements of~~ 35 Ill. Adm. Code 733 or federal 40 CFR 273.

g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1) 35 Ill. Adm. Code 722.111;

2) The conditionally exempt small quantity generator may accumulate

hazardous waste on-site. If it accumulates at any time more than a total of 1,000 kilograms of the generator's hazardous waste, all of those accumulated wastes are subject to regulation ~~under~~ pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of between 100 kg and 1,000 kg of hazardous waste in a calendar month, as well as ~~the requirements of~~ 35 Ill. Adm. Code 702, 703, and 723 through ~~726, and~~ 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed 1,000 kilograms;

3) A conditionally exempt small quantity generator may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:

A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;

B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;

C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;

E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to ~~the requirements of~~ federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

F) The facility is one that fulfills the following conditions:

i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or

ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or

G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to ~~the requirements of~~ 35 Ill. Adm. Code 733 or federal 40 CFR 273.

h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.

i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

j) If a conditionally exempt small quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.107 Residues of Hazardous Waste in Empty Containers

a) Applicability of rules.

1) Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in subsection (b) of this Section, is not subject to regulation under 35 Ill. Adm. Code 702, 703, or 721 through ~~725, or~~ 728, or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act.

2) Any hazardous waste in either a container that is not empty or an inner liner that is removed from a container that is not empty, as defined in subsection (b) of this Section, is subject to regulations under 35 Ill. Adm. Code 702, 703, and 721 through ~~725, and~~ 728 and to the notification requirements of Section 3010 of the Resource Conservation and Recovery

Act.

b) Definition of "empty":

1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Sections 721.131, 721.132, or 721.133(e), is empty if the conditions of subsections (b)(1)(A) and (b)(1)(B) of this Section exist, subject to the limitations of subsection (b)(1)(C) of this Section:

A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and

B) No more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner, or

C) Weight limits.

i) No more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons (416 liters) in size, until September 5, 2006, or 119 gallons (450 liters) in size, effective September 5, 2006; or

ii) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons (416 liters) in size, until September 5, 2006, or 119 gallons (450 liters) in size, effective September 5, 2006.

2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches ambient atmospheric pressure.

3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in Section 721.131, 721.132, or 721.133(e) is empty if any of the following occurs:

A) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

B) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests

conducted by the generator, to achieve equivalent removal; or

C) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.108 PCB Wastes Regulated under TSCA

Polychlorinatedbiphenyl-(PCB-)containing dielectric fluid and electric equipment containing such fluid are exempt from regulation under 35 Ill. Adm. Code 702, 703, and 721 through ~~725, and~~ 728, and from the notification requirements of Section 3010 of the Resource Conservation and Recovery Act if the following conditions are fulfilled with regard to the fluid:

a) The fluid is authorized for use and regulated pursuant to federal 40 CFR 761; and

b) The fluid is hazardous only because it fails the test for toxicity characteristic (hazardous waste codes D018 through D043 only).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702, 703, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The following wastes are subject to regulation under 35 Ill. Adm. Code 733:

a) Batteries, as described in 35 Ill. Adm. Code 733.102;

b) Pesticides, as described in 35 Ill. Adm. Code 733.103;

c) ~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

d) Lamps, as described in 35 Ill. Adm. Code 733.105~~; and~~.

~~e) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (e) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section 721.120 General

a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

BOARD NOTE: 35 Ill. Adm. Code 722.111 sets forth the generator's responsibility to determine whether the generator's waste exhibits one or more characteristics identified in this Subpart C.

b) A hazardous waste that is identified by a characteristic in this Subpart C is assigned every USEPA hazardous waste number that is applicable as set forth in this Subpart C. This number must be used in complying with the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6910) and all applicable recordkeeping and reporting requirements under 35 Ill. Adm. Code 702, 703, and 722 through ~~726 and~~ 728.

c) For purposes of this Subpart C, a sample obtained using any of the applicable sampling methods specified in Appendix A of this Part is a representative sample within the meaning of 35 Ill. Adm. Code 720.

BOARD NOTE: Since the Appendix A sampling methods are not being formally adopted, a person who desires to employ an alternative sampling method is not required to demonstrate the equivalency of the person's method under the procedures set forth in 35 Ill. Adm. Code 720.121.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: LISTS OF HAZARDOUS WASTE

Section 721.130 General

a) A solid waste is a hazardous waste if it is listed in this Subpart D, unless it has been excluded from this list pursuant to 35 Ill. Adm. Code 720.120 and 720.122.

b) The basis for listing the classes or types of wastes listed in this Subpart D is indicated by employing one or more of the following hazard codes:

1) Hazard Codes.

A)	Ignitable waste	(I)
B)	Corrosive waste	(C)

C) Reactive waste (R)

D) Toxicity Characteristic waste (E)

E) Acute hazardous waste (H)

F) Toxic waste (T)

2) Appendix G of this Part identifies the constituent that caused the Administrator to list the waste as a toxicity characteristic waste (E) or toxic waste (T) in Sections 721.131 and 721.132.

c) Each hazardous waste listed in this Subpart D is assigned a USEPA hazardous waste number that precedes the name of the waste. This number must be used in complying with the federal notification requirements of section 3010 of RCRA (42 USC 6910) and certain recordkeeping and reporting requirements under 35 Ill. Adm. Code 702, 703, and 722 through ~~725, and~~ 728 ~~and federal 40 CFR 122~~.

d) The following hazardous wastes listed in Section 721.131 or 721.132 are subject to the exclusion limits for acute hazardous wastes established in Section 721.105: hazardous wastes numbers F020, F021, F022, F023, F026, and F027.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.138 Comparable or Syngas Fuel Exclusion

Wastes that meet the following comparable or syngas fuel requirements are not solid wastes:

a) Comparable fuel specifications.

1) Physical specifications.

A) Heating value. The heating value must exceed 5,000 Btu/lb (11,500 J/g).

B) Viscosity. The viscosity must not exceed 50 cs, as fired.

2) Constituent specifications. For the compounds listed, the constituent specification levels and minimum required detection limits (where non-detect is the constituent specification) are set forth in the table at subsection (d) of this Section.

b) Synthesis gas fuel specification. Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must fulfill the following requirements:

1) It must have a minimum Btu value of 100 Btu/Scf;

2) It must contain less than 1 ppmv of total halogen;

3) It must contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N_2);

4) It must contain less than 200 ppmv of hydrogen sulfide; and

5) It must contain less than 1 ppmv of each hazardous constituent in the target list of constituents listed in Appendix H of this Part.

c) Implementation. Waste that meets the comparable or syngas fuel specifications provided by subsection (a) or (b) of this Section (these constituent levels must be achieved by the comparable fuel when generated, or as a result of treatment or blending, as provided in subsection (c)(3) or (c)(4) of this Section) is excluded from the definition of solid waste provided that the following requirements are met:

1) Notices. For purposes of this Section, the person claiming and qualifying for the exclusion is called the comparable or syngas fuel generator and the person burning the comparable or syngas fuel is called the comparable or syngas burner. The person that generates the comparable fuel or syngas fuel must claim and certify to the exclusion.

A) Notice to the Agency.

i) The generator must submit a one-time notice to the Agency, certifying compliance with the conditions of the exclusion and providing documentation, as required by subsection (c)(1)(A)(iii) of this Section;

ii) If the generator is a company that generates comparable or syngas fuel at more than one facility, the generator must specify at which sites the comparable or syngas fuel will be generated;

iii) A comparable or syngas fuel generator's notification to the Agency must contain the items listed in subsection (c)(1)(C) of this Section.

B) Public notice. Prior to burning an excluded comparable or syngas fuel, the burner must publish in a major newspaper of general circulation, local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Comparable or Syngas Fuel Excluded Under the Resource Conservation and Recovery Act" containing the following information:

i) The name, address, and USEPA identification number of the generating facility;

ii) The name and address of the units that will burn the comparable or syngas fuel;

iii) A brief, general description of the manufacturing, treatment, or other process generating the comparable or syngas fuel;

iv) An estimate of the average and maximum monthly and annual quantity of the waste claimed to be excluded; and

v) The name and mailing address of the Agency office to which the claim was submitted.

C) Required content of comparable or syngas notification to the Agency.

i) The name, address, and USEPA identification number of the person or facility claiming the exclusion;

ii) The applicable USEPA hazardous waste codes for the hazardous waste;

iii) The name and address of the units that meet the requirements of subsection (c)(2) of this Section that will burn the comparable or syngas fuel; and

iv) The following statement, signed and submitted by the person claiming the exclusion or its authorized representative:

> Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 35 Ill. Adm. Code 721.138 have been met for all waste identified in this notification. Copies of the records and information required by 35 Ill. Adm. Code 721.138(c)(10) are available at the comparable or syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that

there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Subsections (c)(1)(C)(i) through (c)(1)(C)(iv) are derived from 40 CFR 261.138(c)(1)(i)(C)(*1*) and (c)(1)(i)(C)(*4*), which the Board has codified here to comport with Illinois Administrative Code format requirements.

2) Burning. The comparable or syngas fuel exclusion for fuels that meet the requirements of subsections (a) or (b) and (c)(1) of this Section applies only if the fuel is burned in the following units that also must be subject to federal, State, and local air emission requirements, including all applicable federal Clean Air Act (CAA) maximum achievable control technology (MACT) requirements:

A) Industrial furnaces, as defined in 35 Ill. Adm. Code 720.110;

B) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are further defined as follows:

i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

C) Hazardous waste incinerators subject to regulation ~~under~~ pursuant to Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 or applicable CAA MACT standards.

D) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

3) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification must fulfill the following requirements:

A) As generated and prior to any blending, manipulation, or processing, the waste must meet the constituent and heating value specifications of subsections (a)(1)(A) and (a)(2) of this Section;

B) The waste must be blended at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134; and

C) The waste must not violate the dilution prohibition of subsection (c)(6) of this Section.

4) Treatment to meet the comparable fuel exclusion specifications.

A) A hazardous waste may be treated to meet the exclusion specifications of subsections (a)(1) and (a)(2) of this Section provided the treatment fulfills the following requirements:

i) The treatment destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

ii) The treatment is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134; and

iii) The treatment does not violate the dilution prohibition of subsection (c)(6) of this Section.

B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a comparable fuel remain a hazardous waste.

5) Generation of a syngas fuel.

A) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of subsection (b) of this Section provided the processing fulfills the following requirements:

i) The processing destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;

ii) The processing is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 724 and 725 or 35 Ill. Adm. Code 722.134 or is an exempt recycling unit pursuant to Section 721.106(c); and

iii) The processing does not violate the dilution prohibition of subsection (c)(6) of this Section.

B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a syngas fuel remain a

hazardous waste.

6) Dilution prohibition for comparable and syngas fuels. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility must in any way dilute a hazardous waste to meet the exclusion specifications of subsection (a)(1)(A), (a)(2), or (b) of this Section.

7) Waste analysis plans. The generator of a comparable or syngas fuel must develop and follow a written waste analysis plan that describes the procedures for sampling and analysis of the hazardous waste to be excluded. The plan must be followed and retained at the facility excluding the waste.

A) At a minimum, the plan must specify the following:

i) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of those parameters;

ii) The test methods that will be used to test for these parameters;

iii) The sampling method that will be used to obtain a representative sample of the waste to be analyzed;

iv) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date; and

v) If process knowledge is used in the waste determination, any information prepared by the generator in making such determination.

B) The waste analysis plan must also contain records of the following:

i) The dates and times waste samples were obtained, and the dates the samples were analyzed;

ii) The names and qualifications of the persons who obtained the samples;

iii) A description of the temporal and spatial locations of the samples;

iv) The name and address of the laboratory facility at which

analyses of the samples were performed;

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

vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;

vii) All laboratory results demonstrating that the exclusion specifications have been met for the waste; and

viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (c)(11) of this Section and also provides for the availability of the documentation to the claimant upon request.

C) Syngas fuel generators must submit for approval, prior to performing sampling, analysis, or any management of a syngas fuel as an excluded waste, a waste analysis plan containing the elements of subsection (c)(7)(A) of this Section to the Agency. The approval of waste analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the waste analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.

8) Comparable fuel sampling and analysis.

A) General. For each waste for which an exclusion is claimed, the generator of the hazardous waste must test for all the constituents on Appendix H of this Part, except those that the generator determines, based on testing or knowledge, should not be present in the waste. The generator is required to document the basis of each determination that a constituent should not be present. The generator may not determine that any of the following categories of constituents should not be present:

i) A constituent that triggered the toxicity characteristic for the waste constituents that were the basis of the listing of the waste stream, or constituents for which there is a

treatment standard for the waste code in 35 Ill. Adm. Code 728.140;

ii) A constituent detected in previous analysis of the waste;

iii) Constituents introduced into the process that generates the waste; or

iv) Constituents that are byproducts or side reactions to the process that generates the waste.

B) For each waste for which the exclusion is claimed where the generator of the comparable or syngas fuel is not the original generator of the hazardous waste, the generator of the comparable or syngas fuel may not use process knowledge pursuant to subsection (c)(8)(A) of this Section and must test to determine that all of the constituent specifications of subsections (a)(2) and (b) of this Section have been met.

C) The comparable or syngas fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the waste. For the waste to be eligible for exclusion, a generator must demonstrate the following:

i) That each constituent of concern is not present in the waste above the specification level at the 95 percent upper confidence limit around the mean; and

ii) That the analysis could have detected the presence of the constituent at or below the specification level at the 95 percent upper confidence limit around the mean.

D) Nothing in this subsection (c)(8) preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person that generates a solid waste to determine if that waste is a hazardous waste.

E) In an enforcement action, the burden of proof to establish conformance with the exclusion specification must be on the generator claiming the exclusion.

F) The generator must conduct sampling and analysis in accordance with its waste analysis plan developed ~~under~~ pursuant to

subsection (c)(7) of this Section.

G) Syngas fuel and comparable fuel that has not been blended in order to meet the kinematic viscosity specifications must be analyzed as generated.

H) If a comparable fuel is blended in order to meet the kinematic viscosity specifications, the generator must undertake the following actions:

i) Analyze the fuel as generated to ensure that it meets the constituent and heating value specifications; and

ii) After blending, analyze the fuel again to ensure that the blended fuel continues to meet all comparable or syngas fuel specifications.

I) Excluded comparable or syngas fuel must be retested, at a minimum, annually and must be retested after a process change that could change the chemical or physical properties of the waste.

BOARD NOTE: Any claim ~~under~~ pursuant to this ~~section~~ Section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the waste above the exclusion specifications.

9) Speculative accumulation. Any persons handling a comparable or syngas fuel are subject to the speculative accumulation test ~~under~~ pursuant to Section 721.102(c)(4).

10) Records. The generator must maintain records of the following information on-site:

A) All information required to be submitted to the implementing authority as part of the notification of the claim:

i) The owner or operator name, address, and RCRA facility USEPA identification number of the person claiming the exclusion;

ii) The applicable USEPA hazardous waste codes for each hazardous waste excluded as a fuel; and

iii) The certification signed by the person claiming the exclusion or his authorized representative;

B) A brief description of the process that generated the hazardous waste and process that generated the excluded fuel, if not the same;

C) An estimate of the average and maximum monthly and annual quantities of each waste claimed to be excluded;

D) Documentation for any claim that a constituent is not present in the hazardous waste, as required ~~under~~ pursuant to subsection (c)(8)(A) of this Section;

E) The results of all analyses and all detection limits achieved, as required ~~under~~ pursuant to subsection (c)(8) of this Section;

F) If the excluded waste was generated through treatment or blending, documentation, as required ~~under~~ pursuant to subsection (c)(3) or (c)(4) of this Section;

G) If the waste is to be shipped off-site, a certification from the burner, as required ~~under~~ pursuant to subsection (c)(12) of this Section;

H) A waste analysis plan and the results of the sampling and analysis that include the following:

i) The dates and times waste samples were obtained, and the dates the samples were analyzed;

ii) The names and qualifications of the persons that obtained the samples;

iii) A description of the temporal and spatial locations of the samples;

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

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

vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;

vii) All laboratory analytical results demonstrating that the exclusion specifications have been met for the waste; and

viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (c)(11) of this Section and also provides for the availability of the documentation to the claimant upon request; and

I) If the generator ships comparable or syngas fuel off-site for burning, the generator must retain for each shipment the following information on-site:

i) The name and address of the facility receiving the comparable or syngas fuel for burning;

ii) The quantity of comparable or syngas fuel shipped and delivered;

iii) The date of shipment or delivery;

iv) A cross-reference to the record of comparable or syngas fuel analysis or other information used to make the determination that the comparable or syngas fuel meets the specifications, as required ~~under~~ pursuant to subsection (c)(8) of this Section; and

v) A one-time certification by the burner, as required ~~under~~ pursuant to subsection (c)(12) of this Section.

11) Records retention. Records must be maintained for the period of three years. A generator must maintain a current waste analysis plan during that three-year period.

12) Burner certification. Prior to submitting a notification to the Agency, a comparable or syngas fuel generator that intends to ship its fuel off-site for burning must obtain a one-time written, signed statement from the burner that includes the following:

A) A certification that the comparable or syngas fuel will only be burned in an industrial furnace or boiler, utility boiler, or hazardous waste incinerator, as required ~~under~~ pursuant to subsection (c)(2) of this Section;

B) Identification of the name and address of the units that will burn the comparable or syngas fuel; and

C) A certification that the state in which the burner is located is authorized to exclude wastes as comparable or syngas fuel under the provisions of ~~this section~~ 40 CFR 261.38.

13) Ineligible waste codes. Wastes that are listed because of presence of dioxins or furans, as set out in Appendix G of this Part, are not eligible for this exclusion, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to full RCRA hazardous waste management requirements.

d) Table Y of this Part sets forth the table of detection and detection limit values for comparable fuel specification.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 721.Appendix I Wastes Excluded by Administrative Action

Table B Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources

Facility Address	Waste Description
Amoco Oil Company Wood River, Illinois	150 million gallons of DAF float from petroleum refining contained in four surge ponds after treatment with the Chemfix stabilization process. This waste contains USEPA hazardous waste number K048. This exclusion applies to the 150 million gallons of waste after chemical stabilization as long as the mixing ratios of the reagent with the waste are monitored continuously and do not vary outside of the limits presented in the demonstration samples and one grab sample is taken each hour from each treatment unit, composited, and TCLP tests performed on each sample. If the levels of lead or total chromium exceed 0.5 ppm in the EP extract, then the waste that was processed during the compositing period is considered hazardous; the treatment residue must be pumped into bermed cells to ensure that the waste is identifiable in the event that removal is necessary.
Conversion Systems, Inc. Horsham, Pennsylvania (Sterling, Illinois operations)	Chemically stabilized electric arc furnace dust (CSEAFD) that is generated by Conversion Systems, Inc. (CSI) (using the Super Detox® treatment process, as modified by CSI to

treat electric arc furnace dust (EAFD) (USEPA hazardous waste no. K061)), at the following site and which is disposed of in a RCRA Subtitle D municipal solid waste landfill (MSWLF): Northwestern Steel, Sterling, Illinois.

CSI must implement a testing program for each site that meets the following conditions:

1. Verification testing requirements: Sample collection and analyses, including quality control procedures, must be performed ~~according to~~ using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), must be used without substitution. As applicable, the EPA-530/SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses USEPA Method 1664, Rev. A), 9071B, and 9095B.

A. Initial verification testing: During the first 20 days of full-scale operation of a newly-constructed Super Detox® treatment facility, CSI must analyze a minimum of four composite samples of CSEAFD representative of the full 20-day period. Composite samples must be composed of representative samples collected from every batch generated. The CSEAFD samples must be analyzed for the constituents listed in condition 3 below. CSI must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 60 days after the generation of the first batch of CSEAFD.

B. Addition of new Super Detox® treatment facilities to the exclusion:

Option 1: If USEPA approves additional facilities, CSI may petition the Board for identical-in substance amendment of this exclusion pursuant to Section 22.4 for the Act and 35 Ill. Adm. Code 102 and 720.120(a), or

Option 2: If USEPA has not approved such amendment, CSI may petition the Board for amendment pursuant to the general rulemaking procedures of Section 27 of the Act and 35 Ill. Adm. Code 102 and 720.120(b); or

Option 3: Alternatively to options 1 or 2 above, CSI may petition the Board for a hazardous waste delisting pursuant to Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104 and 35 Ill. Adm. Code 720.122.

If CSI pursues general rulemaking (option 2 above) or hazardous waste delisting (option 3 above), it must demonstrate that the CSEAFD generated by a specific Super Detox® treatment facility consistently meets the delisting levels specified in condition 3 below.

C. Subsequent verification testing: For the approved facility, CSI must collect and analyze at least one composite sample of CSEAFD each month. The composite samples must be composed of representative samples collected from all batches treated in each month. These monthly representative samples must be analyzed, prior to the disposal of the CSEAFD, for the constituents listed in condition 3 below. CSI may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are ~~nonhazardous~~ non-hazardous.

2. Waste holding and handling: CSI must store as hazardous all CSEAFD generated until verification testing, as specified in condition 1A or 1C above, as appropriate, is completed and valid analyses demonstrate that condition 3 below is satisfied. If the levels of constituents measured in the samples of CSEAFD do not exceed the levels set forth in condition 3, then the CSEAFD is ~~nonhazardous~~ non-hazardous and may be disposed of in a RCRA Subtitle D municipal solid waste landfill. If constituent levels in a sample exceed any of the delisting levels set forth in condition 3 below, the CSEAFD generated during the time period corresponding to this sample must be retreated until it meets these levels or managed and disposed of as hazardous waste, in accordance with 35 Ill. Adm. Code 702

through 705, 720 through ~~726,~~ 728, ~~and~~ 733, 738, and 739. CSEAFD generated by a new CSI treatment facility must be managed as a hazardous waste prior to the addition of the name and location of the facility to this exclusion pursuant to condition 1C above. After addition of the new facility to the exclusion pursuant to condition 1B above, CSEAFD generated during the verification testing in condition 1A is also non-hazardous if the delisting levels in condition 3 are satisfied.

3. Delisting levels: All leachable concentrations for metals must not exceed the following levels (in parts per million (ppm)): antimony---0.06; arsenic---0.50; barium---7.6; beryllium---0.010; cadmium---0.050; chromium---0.33; lead---0.15; mercury---0.009; nickel---1; selenium---0.16; silver---0.30; thallium---0.020; vanadium---2; and zinc---70. Metal concentrations must be measured in the waste leachate by the method specified in Section 721.124.

4. Changes in operating conditions: After initiating subsequent testing, as described in condition 1C, if CSI significantly changes the stabilization process established ~~under~~ pursuant to condition 1 (e.g., use of new stabilization reagents), CSI must seek amendment of this exclusion using one of the options set forth in condition 1B above. After written amendment of this exclusion, CSI may manage CSEAFD wastes generated from the new process as ~~nonhazardous~~ non-hazardous if the wastes meet the delisting levels set forth in condition 3 above.

5. Data submittals: At least one month prior to operation of a new Super Detox® treatment facility, CSI must notify the Agency in writing when the Super Detox® treatment facility is scheduled to be on-line. The data obtained through condition 1A must be submitted to the Agency within the time period specified. Records of operating conditions and analytical data from condition 1 must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished to the Agency upon request and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time will be considered a violation of the Act and Board regulations. All data submitted must be accompanied by a signed copy of the

following certification statement to attest to the truth and accuracy of the data submitted:

"Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete.

"As to (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete.

"In the event that any of this information is determined by the Board or a court of law to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Board or court and that the company will be liable for any actions taken in contravention of the company's obligations under the federal RCRA and Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 et seq.) and corresponding provisions of the Act premised upon the company's reliance on the void exclusion."

BOARD NOTE: The obligations of this exclusion are derived from but also distinct from the obligations under the corresponding federally-granted exclusion of table 2 of appendix IX to 40 CFR 261.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 722
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

SUBPART B: THE MANIFEST

SUBPART C: PRE-TRANSPORT REQUIREMENTS

SUBPART D: RECORDKEEPING AND REPORTING

SUBPART E: EXPORTS OF HAZARDOUS WASTE

SUBPART F: IMPORTS OF HAZARDOUS WASTE

Section
722.160 Imports of Hazardous Waste

SUBPART G: FARMERS

Section
722.170 Farmers

SUBPART H: TRANSFRONTIER SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY WITHIN THE OECD

Section
722.180 Applicability
722.181 Definitions
722.182 General Conditions
722.183 Notification and Consent
722.184 Tracking Document
722.185 Contracts
722.186 Provisions Relating to Recognized Traders
722.187 Reporting and Recordkeeping
722.189 OECD Waste Lists

722.Appendix A Hazardous Waste Manifest

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138,

effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 722.110 Purpose, Scope, and Applicability

a) This Part establishes standards for generators of hazardous waste.

b) A generator must use 35 Ill. Adm. Code 721.105(c) and (d) to determine the applicability of provisions of this Part that are dependent on calculations of the quantity of hazardous waste generated per month.

c) A generator that treats, stores, or disposes of a hazardous waste on-site must comply only with the following Sections of this Part with respect to that waste: Section 722.111, for determining whether or not the generator has a hazardous waste; Section 722.112, for obtaining an USEPA identification number; Section 722.140(c) and (d), for recordkeeping; Section 722.143, for additional reporting; and Section 722.170, for farmers, if applicable.

d) Any person that exports or imports hazardous waste that is subject to the hazardous waste manifesting requirements of this Part or the universal waste management standards of 35 Ill. Adm. Code 733, to or from countries listed in Section 722.158(a)(1) for recovery, must comply with Subpart H of this Part.

e) Any person that imports hazardous waste into the United States must comply with the generator standards of this Part.

f) A farmer that generates waste pesticides that are hazardous waste and ~~that~~ which complies with ~~all of the requirements of~~ Section 722.170 is not required to comply with other standards in this Part or 35 Ill. Adm. Code 702, 703, 724~~, 725, or~~ through 728, 733, or 739 with respect to such pesticides.

g) A person that generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to the compliance requirements and penalties prescribed in Title VIII and XII of the Environmental Protection Act if that person does not comply with ~~the requirements of~~ this Part.

h) An owner or operator that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Part.

i) A person responding to an explosives or munitions emergency in accordance with 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or (c)(11)(D) and 35 Ill. Adm. Code 703.121(a)(4) or (c) is not required to comply with the standards of this Part.

BOARD NOTE: The provisions of Section 722.134 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of Section 722.134 only apply to ~~owners~~ an owner or ~~operators~~ operator that ~~are~~ is shipping hazardous waste which ~~they~~ it generated at that facility. A generator that treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 35 Ill. Adm. Code 702, 703, 724~~, 725, 726, and~~ through 728, 733, and 739.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 722.111 Hazardous Waste Determination

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

a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.

b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

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

c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:

1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or

2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.

d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 724~~, 725,~~ through 728, ~~and~~ 733, and 739 for possible exclusions or restrictions pertaining to the management of the specific waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 722.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is

subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART D: RECORDKEEPING AND REPORTING

Section 722.141 Annual Reporting

a) A generator that ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit a single copy of an annual report to the Agency by March 1 for the preceding calendar year. The annual report must be submitted on a form supplied by the Agency, and must cover generator activities during the previous calendar year, and must include the following information:

1) The USEPA identification number, name, and address of the generator;

2) The calendar year covered by the report;

3) The USEPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;

4) The name and USEPA identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;

5) A description, USEPA hazardous waste number (from Subpart C or D of 35 Ill. Adm. Code 721), USDOT hazard class and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by USEPA identification number of each off-site facility to which waste was shipped;

6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

8) The certification signed by the generator or the generator's authorized representative.

b) Any generator that treats, stores, or disposes of hazardous waste on-site must submit an annual report covering those wastes in accordance with the provisions of 35 Ill. Adm. Code 702, 703, and 724~~, 725, and 726~~ through 727. Reporting for exports of hazardous waste is not required on the annual report form. A separate annual report requirement is set forth at Section 722.156.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 723
STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section
723.110 Scope
723.111 USEPA Identification Number
723.112 Transfer Facility Requirements
723.113 Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

Section
723.120 The Manifest System
723.121 Compliance with the Manifest
723.122 Recordkeeping

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section
723.130 Immediate Action
723.131 Discharge Cleanup

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

SOURCE: Adopted in R81-22~~, 43 PCB 427,~~ at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22~~, 45 PCB 17,~~ at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19, at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965,

effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 723.112 Transfer Facility Requirements

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less is not subject to regulations under 35 Ill. Adm. Code 702, 703, or 724~~, 725 or~~ through 728 with respect to the storage of those wastes.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 723.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

a) No acceptance without a manifest.
   1) The following manifest requirements apply until September 5, 2006:
      A) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 722.120. In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722~~. Subpart H~~, a transporter may not accept such waste from a primary exporter or other person:
         i) If the transporter knows the shipment does not conform with the USEPA Acknowledgement of Consent (as defined in 35 Ill. Adm. Code 722.151); and
         ii) Unless, in addition to a manifest signed in accordance with 35 Ill. Adm. Code 722.120, the waste is also accompanied by a USEPA Acknowledgement of Consent ~~which~~ that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

B) For exports of hazardous waste subject to ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.

2) The following manifest requirements apply effective September 5, 2006:

A) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123.

B) Exports.

i) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator as provided in this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

ii) For exports of hazardous waste subject to ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.

BOARD NOTE: Subsection (a)(1) corresponds with 40 CFR 263.20(a) (2004), effective until September 5, 2006. Subsection (a)(2) corresponds with 40 CFR 263.20(a) (2005), effective September 5, 2006. The Board omitted 40 CFR 263.20(a)(3) (2005), since that provision merely stated the September 5, 2006 effective date for the newer manifest requirements.

b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.

d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:

1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the

manifest;

2) It must retain one copy of the manifest in accordance with Section 723.122; and

3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.

e) ~~The requirements of subsections~~ Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:

1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;

2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;

3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;

4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.

f) For shipments involving rail transportation, the following requirements apply instead of ~~the requirements of~~ subsections (c), (d), and (e), which do not apply:

1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:

A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;

B) It must return a signed copy of the manifest to the non-rail transporter;

C) It must forward at least three copies of the manifest to the following entities:

i) The next non-rail transporter, if any;

ii) The designated facility, if the shipment is delivered to that facility by rail; or

iii) The last rail transporter designated to handle the waste in the United States;

D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.

2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:

A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.

4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:

A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

B) It must retain a copy of the manifest in accordance with Section 723.122.

5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.

g) Transporters that transport hazardous waste out of the United States must do the following:

1) Until September 5, 2006:
   A) Indicate on the manifest the date the hazardous waste left the United States;
   B) Sign the manifest and retain one copy in accordance with Section 723.122(c);
   C) Return a signed copy of the manifest to the generator; and
   D) Give a copy of the manifest to a United States Customs official at the point of departure from the United States.
2) Effective September 5, 2006:
   A) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
   B) Retain one copy in accordance with Section 723.122(d);
   C) Return a signed copy of the manifest to the generator; and
   D) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

BOARD NOTE: Subsections (g)(1)(A) through (g)(1)(B) correspond with 40 CFR 263.20(g) (2004). Subsections (g)(2)(A) through (g)(2)(B) correspond with 40 CFR 263.20(g) (2005). The Board added subsections (g)(1) and (g)(2), reciting the effective dates, based on 40 CFR 263.20(a)(3) (2005).

h) A transporter transporting hazardous waste from a generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month need not comply with ~~the requirements of~~ this Section or ~~those of~~ Section 723.122 provided that:

1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);

2) The transporter records, on a log or shipping paper, the following information for each shipment:

   A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;

   B) The quantity of waste accepted;

   C) All shipping information required by the United States Department of Transportation;

   D) The date the waste is accepted; and

3) The transporter carries this record when transporting waste to the reclamation facility; and

4) The transporter retains these records for a period of at least three years

after termination or expiration of the agreement.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section 723.130 Immediate Action

a) In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to adequately protect human health and the environment (e.g., notify local authorities, dike the discharge area).

b) If a discharge of hazardous waste occurs during transportation and an official (of state or local government or of a federal agency) acting within the scope of his or her official responsibilities determines that immediate removal of the waste is necessary to adequately protect human health or the environment, that official may authorize the removal of the waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest.

c) An air, rail, highway, or water transporter that has discharged hazardous waste must:

1) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15 (Immediate Notice of Certain Hazardous Materials Incidents), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

2) Report in writing to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, as required by 49 CFR 171.16 (Detailed Hazardous Materials Incident Reports), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and

3) Give notice to the following State agency:

Illinois Emergency Management Agency
110 East Adams
Springfield, Illinois 62706
217-782-7860

d) A water (bulk shipment) transporter that has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 (Procedure for the Notice of Discharge), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for oil and hazardous substances.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

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

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724.Appendix D Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.Appendix E Examples of Potentially Incompatible Waste
724.Appendix I Groundwater Monitoring List

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

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26

Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.

b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

c) ~~The requirements of this~~ This Part ~~apply~~ applies to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued ~~under~~ pursuant to the federal Marine Protection, Research and Sanctuaries Act (~~16 USC 1431-1434,~~ 33 USC 1401 et seq.) only to the extent they are included in a RCRA permit by rule granted to such a person ~~under~~ pursuant to 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)] and 35 Ill. Adm. Code 703.121.

BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

d) ~~The requirements of this~~ This Part ~~apply~~ applies to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)] only to the extent they are required by Subpart F of 35 Ill. Adm. Code 704.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

e) ~~The requirements of this~~ This Part ~~apply~~ applies to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person ~~under~~ pursuant to 35 Ill. Adm. Code 703.141.

f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.

g) ~~The requirements of this~~ This Part ~~do~~ does not apply to the following:

1) The owner or operator of a facility permitted by the Agency ~~under~~ pursuant to Section 21 of the Environmental Protection Act [415 ILCS 5/21] to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation ~~under~~ pursuant to this Part by 35 Ill. Adm. Code 721.105.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit ~~under~~ pursuant to 35 Ill. Adm. Code 807.210.

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

3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.

4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.

5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.

6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T to 35 Ill. Adm. Code 728) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).

7) This subsection (g)(7) corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.

8) Immediate response.

A) Except as provided in subsection (g)(8)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

i) A discharge of a hazardous waste;

ii) An imminent and substantial threat of a discharge of hazardous waste;

iii) A discharge of a material that becomes a hazardous waste when discharged; or

iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.

C) Any person that is covered by subsection (g)(8)(A) of this Section and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.

D) In the case of an explosives or munitions emergency response, if a federal, State, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to adequately protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

9) A transporter storing manifested shipments of hazardous waste in containers meeting ~~the requirements of~~ 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.

10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.

11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 733 when handling the following universal wastes:

A) Batteries, as described in 35 Ill. Adm. Code 733.102;

B) Pesticides, as described in 35 Ill. Adm. Code 733.103;

C) ~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

D) Lamps, as described in 35 Ill. Adm. Code 733.105~~; and~~.

~~E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (g)(11)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.

i) 35 Ill. Adm. Code 726.505 identifies when ~~the requirements of~~ this Part ~~apply~~ applies to the storage of military munitions classified as solid waste ~~under~~ pursuant to 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738.

j) ~~The requirements of~~ Subparts B, C, and D of this Part and Section 724.201 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D of this Part, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of ~~the requirements of~~ Subparts B, C, and D of this Part, ~~owners~~ the owner or ~~operators~~ operator of a remediation waste management ~~sites~~ site must comply with the following requirements:

1) The owner or operator must obtain a USEPA identification number by applying to USEPA using USEPA Form 8700-12;

2) The owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information that must be known to treat, store, or dispose of the waste according to this Part and 35 Ill. Adm. Code 728, and the owner or operator must keep the analysis accurate and up to date;

3) The owner or operator must prevent people who are unaware of the danger from entering the site, and the owner or operator must minimize the possibility for unauthorized people or livestock entering onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate the following to the Agency:

   A) That physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock that may enter the active portion of the remediation waste management site; and

   B) That disturbance of the waste or equipment by people or livestock that enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Part;

4) The owner or operator must inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and the owner or operator must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner or operator must immediately take remedial action;

5) The owner or operator must provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with ~~the requirements of~~ this Part, and on how to respond effectively to emergencies;

6) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and the owner or operator must prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;

7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X of this Part, the owner or operator must design, construct, operate, and maintain a unit within a 100-year floodplain

to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the requirements of Section 724.118(b);

8) The owner or operator must not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;

9) The owner or operator must develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with Sections 724.321(c) and (d), 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste management site, according to ~~the requirements of~~ Section 724.119;

10) The owner or operator must develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents occurs that could threaten human health or the environment;

11) The owner or operator must designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

12) The owner or operator must develop, maintain, and implement a plan to meet the requirements in subsections (j)(2) through (j)(6) and (j)(9) through (j)(10) of this Section; and

13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12) of this Section.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.104 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 724.156 Emergency Procedures

a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:

1) He or she must activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

2) He or she must notify appropriate State or local agencies with designated response roles if their help is needed.

b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions).

d) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health or the environment outside the facility, the emergency coordinator must report the findings as follows:

1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

2) The emergency coordinator must immediately notify either the

government official designated as the on-scene coordinator for that geographical area (in the applicable regional contingency plan ~~under~~ pursuant to federal 40 CFR 300) or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following:

A) ~~Name,~~ The name and telephone number of the ~~owner or operator~~ reporter;

B) ~~Name,~~ The name and address of the facility;

C) ~~Time~~ The time and type of incident (e.g., release, fire);

D) ~~Name~~ The name and quantity of materials involved, to the extent known;

E) The extent of injuries, if any; and

F) The possible hazards to human health or the environment outside the facility.

e) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing release waste, and removing or isolating containers.

f) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

BOARD NOTE: Unless the owner or operator can demonstrate, in accordance with 35 Ill. Adm. Code 721.103(d) or (e), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 724.

h) The emergency coordinator must ensure that the following is true in the affected areas of the facility:

1) No waste that may be incompatible with the released material is treated,

stored, or disposed of until cleanup procedures are completed; and

2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

i) The owner or operator must notify the Agency and appropriate state and local authorities that the facility is in compliance with subsection (h) of this Section before operations are resumed in the affected areas of the facility.

j) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the owner or operator must submit a written report on the incident to the Agency. The report must include the following:

1) The name, address, and telephone number of the owner or operator;

2) The name, address, and telephone number of the facility;

3) The date, time, and type of incident (e.g., fire, explosion);

4) The name and quantity of materials involved;

5) The extent of injuries, if any;

6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

7) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section 724.190 Applicability

a) Types of units.

1) Except as provided in subsection (b) of this Section, the regulations in this Subpart F apply to owners and operators of facilities that treat, store or dispose of hazardous waste. The owner or operator must satisfy the requirements identified in subsection (a)(2) of this Section for all wastes (or constituents thereof) contained in solid waste management units at the facility regardless of the time at which waste was placed in such units.

2) All solid waste management units must comply with the requirements in

Section 724.201. A surface impoundment, waste pile, land treatment unit or landfill that receives hazardous waste after July 26, 1982 (referred to in this Subpart F as a "regulated unit") must comply with ~~the requirements of~~ Sections 724.191 through 724.200, in lieu of Section 724.201, for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The financial responsibility requirements of Section 724.201 apply to regulated units.

b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this Subpart F if the following is true:

1) The owner or operator is exempted ~~under~~ pursuant to Section 724.101; or

2) The owner or operator operates a unit that the Agency finds:

A) Is an engineered structure.

B) Does not receive or contain liquid waste or waste containing free liquids.

C) Is designed and operated to exclude liquid, precipitation, and other runon and runoff.

D) Has both inner and outer layers of containment enclosing the waste.

E) Has a leak detection system built into each containment layer.

F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods.

G) To a reasonable degree of certainty, will not allow hazardous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period; or

3) The Agency finds, pursuant to Section 724.380(d), that the treatment zone of a land treatment unit that qualifies as a regulated unit does not contain levels of hazardous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of Section 724.378 has not shown a statistically significant increase in hazardous constituents below the treatment zone during the operating life of the unit. An exemption ~~under~~ pursuant to this subsection (b) can only relieve an owner or operator of responsibility to meet the requirements of this Subpart F during the post-closure care period; or

4) The Agency finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period specified ~~under~~ pursuant to Section 724.217. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made ~~under~~ pursuant to this subsection (b) on assumptions that maximize the rate of liquid migration; or

5) The owner or operator designs and operates a pile in compliance with Section 724.350(c).

c) The regulations under this Subpart F apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the following is true of the applicability of the regulations in this Subpart F:

1) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure;

2) Apply during the post-closure care period ~~under~~ pursuant to Section 724.217 if the owner or operator is conducting a detection monitoring program ~~under~~ pursuant to Section 724.198; or

3) Apply during the compliance period ~~under~~ pursuant to Section 724.196 if the owner or operator is conducting a compliance monitoring program ~~under~~ pursuant to Section 724.199 or a corrective action program ~~under~~ pursuant to Section 724.200.

d) This Subpart F applies to miscellaneous units if necessary to comply with Sections 724.701 through 724.703.

e) The regulations of this Subpart F apply to all owners and operators subject to ~~the requirements of~~ 35 Ill. Adm. Code 703.161, when the Agency issues a post-closure care permit or other enforceable document that contains alternative requirements for the facility, as provided in 35 Ill. Adm. Code 703.161. When alternative requirements apply to a facility, a reference in this Subpart F to "in the permit" must mean "in the enforceable document."

f) A permit or enforceable document can contain alternative requirements for groundwater monitoring and corrective action for releases to groundwater applicable to a regulated unit that replace all or part of the requirements of 35 Ill. Adm. Code 724.191 through 724.200, as provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.161, where the Board or Agency determines the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the groundwater monitoring and corrective action requirements of 35 Ill. Adm. Code 724.191 through 724.200 because alternative requirements will adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.191 Required Programs

a) Owners and operators subject to this Subpart F must conduct a monitoring and response program as follows:

1) Whenever hazardous constituents ~~under~~ pursuant to Section 724.193 from a regulated unit are detected at a compliance point ~~under~~ pursuant to Section 724.195, the owner or operator must institute a compliance monitoring program ~~under~~ pursuant to Section 724.199. "Detected" is defined as statistically significant evidence of contamination, as described in Section 724.198(f).

2) Whenever the groundwater protection standard ~~under~~ pursuant to Section 724.192 is exceeded, the owner or operator must institute a corrective action program ~~under~~ pursuant to Section 724.200. "Exceeded" is defined as statistically significant evidence of increased contamination, as described in Section 724.199(d).

3) Whenever hazardous constituents ~~under~~ pursuant to Section 724.193 from a regulated unit exceed concentration limits ~~under~~ pursuant to Section 724.194 in groundwater between the compliance point ~~under~~ pursuant to Section 724.195 and the downgradient facility property boundary, the owner or operator must institute a corrective action program ~~under~~ pursuant to Section 724.200; or

4) In all other cases, the owner or operator must institute a detection monitoring program ~~under~~ pursuant to Section 724.198.

b) The Agency must specify in the facility permit the specific elements of the monitoring and response program. The Agency may include one or more of the programs identified in subsection (a) of this Section in the facility permit as may be necessary to adequately protect human health and the environment and must specify the circumstances under which each of the programs will be required. In

deciding whether to require the owner or operator to be prepared to institute a particular program, the Agency must consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.197 General Groundwater Monitoring Requirements

The owner or operator must comply with the following requirements for any groundwater monitoring program developed to satisfy Section 724.198, 724.199, or 724.200.

a) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples from the uppermost aquifer that fulfill the following requirements:

1) They represent the quality of background water that has not been affected by leakage from a regulated unit. A determination of background quality may include sampling of wells that are not hydraulically upgradient from the waste management area where the following is true:

A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or

B) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells;

2) They represent the quality of groundwater passing the point of compliance; and

3) They allow for the detection of contamination when hazardous waste or hazardous constituents have migrated from the hazardous waste management area to the uppermost aquifer.

b) If a facility contains more than one regulated unit, separate groundwater monitoring systems are not required for each regulated unit provided that provisions for sampling the groundwater in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the groundwater in the uppermost aquifer.

c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater

samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater.

d) The groundwater monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the waste management area. At a minimum the program must include procedures and techniques for the following:

1) Sample collection;

2) Sample preservation and shipment;

3) Analytical procedures; and

4) Chain of custody control.

e) The groundwater monitoring program must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents in groundwater samples.

f) The groundwater monitoring program must include a determination of the groundwater surface elevation each time groundwater is sampled.

g) In detection monitoring or where appropriate in compliance monitoring, data on each hazardous constituent specified in the permit will be collected from background wells and wells at the compliance points. The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to groundwater from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit that must be specified in the unit permit upon approval by the Agency. This sampling procedure must fulfill the following requirements:

1) It may be a sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

2) It may be an alternate sampling procedure proposed by the owner or operator and approved by the Agency.

h) The owner or operator must specify one of the following statistical methods to be used in evaluating groundwater monitoring data for each hazardous constituent that, upon approval by the Agency, will be specified in the unit permit. The statistical test chosen must be conducted separately for each hazardous constituent in each well. Where practical quantification limits (pqls) are used in any of the following statistical procedures to comply with subsection (i)(5) of this Section, the pql must be proposed by the owner or operator and approved by the Agency. Use of any of the following statistical methods must ~~be protective of~~ adequately protect human health and the environment and must comply with the performance standards outlined in subsection (i) of this Section.

1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

4) A control chart approach that gives control limits for each constituent.

5) Another statistical test method submitted by the owner or operator and approved by the Agency.

i) Any statistical method chosen ~~under~~ pursuant to subsection (h) of this Section for specification in the unit permit must comply with the following performance standards, as appropriate:

1) The statistical method used to evaluate groundwater monitoring data must be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

2) If an individual well comparison procedure is used to compare an

individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experimentwise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals or control charts.

3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter value must be proposed by the owner or operator and approved by the Agency if the Agency finds it to ~~be protective of~~ adequately protect human health and the environment.

4) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the Agency if the Agency finds these parameters to ~~be protective of~~ adequately protect human health and the environment. These parameters will be determined after considering the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern.

5) The statistical method must account for data below the limit of detection with one or more statistical procedures that ~~are protective of~~ adequately protect human health and the environment. Any practical quantification limit (pql) approved by the Agency ~~under~~ pursuant to subsection (h) of this Section that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

6) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability, as well as temporal correlation in the data.

j) Groundwater monitoring data collected in accordance with subsection (g) of this Section, including actual levels of constituents, must be maintained in the facility operating record. The Agency must specify in the permit when the data must be submitted for review.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.200 Corrective Action Program

An owner or operator required to establish a corrective action program ~~under~~ pursuant to this Subpart F must, at a minimum, discharge the following responsibilities:

a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the groundwater protection standard ~~under~~ pursuant to Section 724.192. The Agency must specify the groundwater protection standard in the facility permit, including the following:

1) A list of the hazardous constituents identified ~~under~~ pursuant to Section 724.193;

2) Concentration limits ~~under~~ pursuant to Section 724.194 for each of those hazardous constituents;

3) The compliance point ~~under~~ pursuant to Section 724.195; and

4) The compliance period ~~under~~ pursuant to Section 724.196.

b) The owner or operator must implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits at the compliance point by removing the hazardous waste constituents or treating them in place. The permit will specify the specific measures that must be taken.

c) The owner or operator must begin corrective action within a reasonable time period after the groundwater protection standard is exceeded. The Agency must specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action must begin and such a requirement will operate in lieu of Section 724.199(i)(2).

d) In conjunction with a corrective action program, the owner or operator must establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program ~~under~~ pursuant to Section 724.199 and must be as effective as that program in determining compliance with the groundwater protection standard ~~under~~ pursuant to Section 724.192 and in determining the success of a corrective action program ~~under~~ pursuant to subsection (e) of this Section where appropriate.

e) In addition to the other requirements of this Section, the owner or operator must conduct a corrective action program to remove or treat in place any hazardous constituents ~~under~~ pursuant to Section 724.193 that exceed concentration limits ~~under~~ pursuant to Section 724.194 in groundwater, as follows:

1) At the following locations:

A) Between the compliance point ~~under~~ pursuant to Section 724.195 and the downgradient facility property boundary; and

B) Beyond the facility boundary, where necessary to adequately protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner and operator are not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis.

2) The permit will specify the following measures to be taken:

A) Corrective action measures ~~under~~ pursuant to this subsection (e) must be initiated and completed within a reasonable period of time considering the extent of contamination.

B) Corrective action measures ~~under~~ pursuant to this subsection (e) may be terminated once the concentration of hazardous constituents ~~under~~ pursuant to Section 724.193 is reduced to levels below their respective concentration limits ~~under~~ pursuant to Section 724.194.

f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the groundwater protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, the owner or operator must continue that corrective action for as long as necessary to achieve compliance with the groundwater protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if the owner or operator can demonstrate, based on data from the groundwater monitoring program ~~under~~ pursuant to subsection (d) of this Section, that the groundwater protection standard of Section 724.192 has not been exceeded for a period of three consecutive years.

g) The owner or operator must report in writing to the Agency on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

h) If the owner or operator determines that the corrective action program no longer satisfies ~~the requirements of~~ this Section, the owner or operator must, within 90

days, submit an application for a permit modification to make any appropriate changes to the program.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.201 Corrective Action for Solid Waste Management Units

a) The owner or operator of a facility seeking a permit for the treatment, storage, or disposal of hazardous waste must institute corrective action as necessary to adequately protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.

b) Corrective action will be specified in the permit in accordance with this Section and Subpart S of this Part. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.

c) The owner or operator must implement corrective action measures beyond the facility property boundary, where necessary to adequately protect human health and the environment, unless the owner or operator demonstrates to the Agency that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner and operator are not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. Assurances of financial responsibility for such corrective action must be provided.

d) ~~The requirements of this~~ This Section ~~do~~ does not apply to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 724.210 Applicability

Except as Section 724.101 provides otherwise, the following are required:

a) Section 724.211 through 724.215 (which concern closure) apply to the owners and operators of all hazardous waste management facilities;

b) Sections 724.216 through 724.220 (which concern post-closure care) apply to the owners and operators of the following:

1) All hazardous waste disposal facilities;

2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that Sections 724.216 through 724.220 are made applicable to such facilities in Sections 724.328 or 724.358;

3) Tank systems that are required ~~under~~ pursuant to Section 724.297 to meet the requirements for landfills; or

4) Containment buildings that are required ~~under~~ pursuant to Section 724.1102 to meet the requirements for landfills; and

c) A permit or enforceable document can contain alternative requirements that replace all or part of the closure and post-closure care requirements of this Subpart G (and the unit-specific standards referenced in Section 724.211(c) applying to a regulated unit) with alternative requirements set out in a permit or other enforceable document, as provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.161, where the Board or Agency determines the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the closure requirements of this Subpart G (and those referenced herein) because the alternative requirements will adequately protect human health and the environment and will satisfy the closure performance standard of Section 724.211 (a) and (b).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.211 Closure Performance Standard

The owner or operator must close the facility in a manner that does the following:

a) ~~Minimizes~~ The closure minimizes the need for further maintenance;

b) ~~Controls,~~ The closure controls, minimizes, or eliminates, to the extent necessary to adequately protect to human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous decomposition products to the ground or surface waters or to the atmosphere; and

c) ~~Complies~~ The closure complies with the closure requirements of this Part including, but not limited to, ~~the requirements of~~ Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451 and 724.701 through 724.703, and 724.1102.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.212 Closure Plan; Amendment of Plan

a) Written plan required.

1) The owner or operator of a hazardous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by Sections 724.328(c)(1)(A) and 724.358(c)(1)(A) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with 35 Ill. Adm. Code 703.183, and approved by the Agency as part of the permit issuance proceeding ~~under~~ pursuant to 35 Ill. Adm. Code 705. In accordance with 35 Ill. Adm. Code 703.241, the approved closure plan will become a condition of any RCRA permit.

2) The Agency's approval of the plan must ensure that the approved closure plan is consistent with Sections 724.211 through 724.215 and the applicable requirements of Sections 724.190 et seq., 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701, and 724.1102. Until final closure is completed and certified in accordance with Section 724.215, a copy of the approved plan and approved revisions must be furnished to the Agency upon request, including requests by mail.

b) Content of plan. The plan must identify steps necessary to perform partial or final closure of the facility at any point during its active life. The closure plan must include, at least the following:

1) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 724.211;

2) A description of how final closure of the facility will be conducted in accordance with Section 724.211. The description must identify the maximum extent of the operations that will be unclosed during the active life of the facility;

3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not

limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the types of off-site hazardous waste management units to be used, if applicable;

4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

5) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and runon and runoff control;

6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that will allow tracking of the progress of partial and final closure (For example, in the case of a landfill unit, estimates of the time required to treat and dispose of all hazardous waste inventory and of the time required to place a final cover must be included.);

7) For facilities that use trust funds to establish financial assurance ~~under~~ pursuant to Section 724.243 or 724.245 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure; and

8) For a facility where alternative requirements are established at a regulated unit ~~under~~ pursuant to Section 724.190(f), 724.210(c), or 724.240(d), as provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.161, either the alternative requirements applying to the regulated unit or a reference to the enforceable document containing those alternative requirements.

c) Amendment of the plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in 35 Ill. Adm. Code 702, 703, and 705. The written notification or request must include a copy of the amended closure plan for review or approval by the Agency.

1) The owner or operator may submit a written notification or request to the Agency for a permit modification to amend the closure plan at any time

prior to notification of partial or final closure of the facility.

2) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever any of the following occurs:

A) Changes in operating plans or facility design affect the closure plan;

B) There is a change in the expected year of closure, if applicable;

C) In conducting partial or final closure activities, unexpected events require modification of the approved closure plan; or

D) The owner or operator requests the establishment of alternative requirements, as provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.161, to a regulated unit ~~under~~ pursuant to Section 724.190(f), 724.210(c), or 724.240(d).

3) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in the facility design or operation, or no later than 60 days after an unexpected event has occurred that has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan ~~under Sections~~ pursuant to Section 724.328(c)(1)(A) or 724.358(c)(1)(A), must submit an amended closure plan to the Agency no later than 60 days after the date the owner or operator or Agency determines that the hazardous waste management unit must be closed as a landfill, subject to ~~the requirements of~~ Section 724.410, or no later than 30 days after that date if the determination is made during partial or final closure. The Agency must approve, disapprove or modify this amended plan in accordance with the procedures in 35 Ill. Adm. Code 702, 703, and 705. In accordance with 35 Ill. Adm. Code 702.160 and 703.241, the approved closure plan will become a condition of any RCRA permit issued.

4) The Agency may request modifications to the plan under the conditions described in Section 724.212(c)(2). The owner or operator must submit the modified plan within 60 days after the Agency's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the Agency must be approved in accordance with the procedures in 35 Ill. Adm. Code 702, 703, and 705.

d) Notification of partial closure and final closure.

1) The owner or operator must notify the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit or final closure of a facility with such a unit. The owner or operator must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

2) The date when the owner or operator "expects to begin closure" must be either of the following:

A) No later than 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator ~~have~~ has taken and will continue to take all steps to adequately prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Agency must approve an extension to this one-year limit; or

B) For units meeting the requirements of Section 724.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the final known volume of non-hazardous wastes, or, if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator demonstrates to the Agency that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to adequately prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Agency must approve an extension to this one-year limit.

3) If the facility's permit is terminated, or if the facility is otherwise ordered by judicial decree or Board order to cease receiving hazardous wastes or to close, then ~~the requirements of~~ this subsection (d) ~~do~~ does not apply. However, the owner or operator must close the facility in accordance with the deadlines established in Section 724.213.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.213 Closure; Time Allowed for Closure

a) All permits must require that, within 90 days after receiving the final volume of hazardous waste, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section, at a hazardous waste management unit or facility, the owner or operator treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan, unless the owner or operator makes the following demonstration by way of permit application or modification application. The Agency must approve a longer period if the owner or operator demonstrates that the following is true:

1) Either of the following:

A) The activities required to comply with this subsection (a) will, of necessity, take longer than 90 days to complete; or

B) All of the following is true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) of this Section;

ii) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility

would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

b) All permits must require that the owner or operator complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this Section, at the hazardous waste management unit or facility, unless the owner or operator makes the following demonstration by way of permit application or modification application. The Agency must approve a longer closure period if the owner or operator demonstrates as follows:

1) Either of the following:

A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

B) All of the following:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) of this Section;

ii) There is reasonable likelihood that the owner or operator will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner and operator have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility including compliance with all applicable permit requirements.

c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must be made as follows:

1) The demonstration in subsection (a)(1) of this Section must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) of this Section; and

2) The demonstration in subsection (b)(1) of this Section must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this Section, unless the owner or operator is otherwise subject to deadlines in subsection (d) of this Section.

d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following is true:

1) The owner or operator requests a permit modification in compliance with all applicable requirements in 35 Ill. Adm. Code 702, 703, and 705, and in the permit modification request demonstrates the following:

A) That the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

B) That there is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes;

C) That the non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility ~~under~~ pursuant to this Part;

D) That closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

E) That the owner or operator is operating and will continue to operate in compliance with all applicable permit requirements;

2) The request to modify the permit includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required ~~under~~ pursuant to 35 Ill. Adm. Code 703.186, and closure and post-closure plans and updated cost estimates and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes, and changes in closure activities, including the expected year of closure if applicable ~~under~~ pursuant to Section 724.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The request to modify the permit and the demonstrations referred to in subsections (d)(1) and (d)(2) of this Section are submitted to the Agency no later than 120 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes at the unit or no later than 90 days after the effective date of this Section, whichever is later.

e) Surface impoundments. In addition to the requirements in subsection (d) of this Section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 724.321(c), (d), or (e) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

A) A plan for removing hazardous wastes; and

B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

A) Removing all hazardous liquids; and

B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and

ii) That an extension will not pose a threat to human health and the environment.

3) The following requirements apply to the contingent corrective measures plan:

A) It must meet the requirements of a corrective action plan ~~under~~

pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

B) It may be a portion of a corrective action plan previously submitted ~~under~~ pursuant to Section 724.199.

C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Definition of "release." A release is defined as a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters or constituents specified in the permit, or over the facility's groundwater protection standard at the or over the facility's groundwater protection standard at the point of compliance, if applicable, detected in accordance with the requirements in Subpart F of this Part.

5) In the event of a release, the owner or operator of the unit must do the following:

A) Within 35 days, the owner or operator must file with the Board a petition for adjusted standard. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to require the owner or operator to ~~do the following:~~ fulfill the conditions of subsections (e)(5)(A)(i) and (e)(5)(A)(ii) of this Section. The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7) of this Section.

i) Begin to implement that corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

~~iii) The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7)~~

~~of this Section.~~

B) The owner or operator must implement the contingent corrective measures plan.

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Semi-annual report. During the period of corrective action, the owner or operator must provide semi-annual reports to the Agency that do the following:

A) Describe the progress of the corrective action program;

B) Compile all groundwater monitoring data; and

C) Evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

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

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

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

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

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

A) Except as otherwise provided, the owner or operator must follow

the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 to petition the Board for an adjusted standard.

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

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

i) A plan for removing hazardous wastes.

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

iii) A contingent corrective measures plan.

iv) A requirement that, in the event of a release, the owner or operator must do as follows: within 35 days, file with the Board a petition for adjusted standard; implement the corrective measures plan; and, file semi-annual reports with the Agency.

v) A condition that the adjusted standard will terminate if the owner or operator fails to do as follows: implement the removal plan; or timely file a required petition for adjusted standard.

vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure of the unit in accordance with the requirements of the closure plan and this Part.

D) Justification in the event of a release. The Board will modify or terminate the adjusted standard pursuant to a petition filed ~~under~~ pursuant to subsection (e)(5)(A) of this Section, as provided in that subsection or in subsection (e)(7) of this Section.

9) The Agency must modify the RCRA permit to include the adjusted standard.

10) The owner or operator may file a permit modification application with a revised closure plan within 15 days after an adjusted standard is

terminated.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.217 Post-Closure Care and Use of Property

a) Post-Closure care period.

1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections 724.217 through 724.220 must begin after completion of closure of the unit and continue for 30 years after that date and must consist of at least the following:

A) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, N, and X of this Part; and

B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, N, and X of this Part.

2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure care period for a particular unit, the Board may, in accordance with the permit modification procedures of 35 Ill. Adm. Code 702, 703, and 705, do either of the following:

A) Shorten the post-closure care period applicable to the hazardous waste management unit or facility if all disposal units have been closed and the Board has found by an adjusted standard issue pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 that the reduced period is sufficient to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the waste, application of advanced technology or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

B) Extend the post-closure care period applicable to the hazardous waste management unit or facility if the Board has found by an adjusted standard issue pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 that the extended period is necessary to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

b) The Agency must require continuation at partial or final closure of any of the security requirements of Section 724.114 during part or all of the post-closure period when either of the following is true:

1) Hazardous wastes may remain exposed after completion of partial or final closure; or

2) Access by the public or domestic livestock may pose a hazard to human health.

c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of the containment system or the function of the facility's monitoring systems, unless the Agency finds, by way of a permit modification, that the disturbance is necessary for either of the following reasons:

1) It is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

2) It is necessary to reduce a threat to human health or the environment.

d) All the post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in Section 724.218.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.219 Post-Closure Notices

a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator of a disposal facility must submit to the Agency, to the County Recorder and to any local zoning authority or authority with jurisdiction over local land use, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous waste to the best of the owner or operator's knowledge and in accordance with any records the owner or operator has kept.

b) Within 60 days after certification of closure of the first hazardous waste disposal unit and within 60 days after certification of closure of the last hazardous waste disposal unit, the owner or operator must do the following:

1) Record a notation on the deed to the facility property ——or on some other instrument that is normally examined during title search ——that will in perpetuity notify any potential purchaser of the property as follows:

A) That the land has been used to manage hazardous wastes; and

B) That its use is restricted ~~under~~ pursuant to this Subpart G; and

C) That the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by subsection (a) of this Section and Section 724.216 have been filed with the Agency, the County Recorder and any local zoning authority or authority with jurisdiction over local land use; and

2) Submit a certification to the Agency, signed by the owner or operator, that the owner or operator has recorded the notation specified in subsection (b)(1) of this Section, including a copy of the document in which the notation has been placed, to the Agency.

c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, such person must request a modification to the post-closure plan in accordance with the applicable requirements in 35 Ill. Adm. Code 703 and 705. The owner and operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 724.217(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 703 and 720 through ~~726~~ 728, and 738. If the owner or operator is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Agency approve either of the following:

1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.240 Applicability

a) The requirements of Sections 724.242, 724.243, and 724.247 through 724.251 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in Section 724.101.

b) The requirements of Sections 724.244 and 724.245 apply only to owners and operators of the following:

1) Disposal facilities;

2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that Sections 724.244 and 724.245 are made applicable to such facilities in Sections 724.328 and 724.358;

3) Tank systems that are required ~~under~~ pursuant to Section 724.297 to meet the requirements for landfills; or

4) Containment buildings that are required ~~under~~ pursuant to Section 724.1102 to meet the requirements for landfills.

c) The State and the federal government are exempt from the requirements of this Subpart H.

d) A permit or enforceable document can contain alternative requirements that replace all or part of the financial assurance requirements of this Subpart H applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the Board or Agency has done the following:

1) The Board or Agency has established alternative requirements for the regulated unit established ~~under~~ pursuant to Section 724.190(f) or 724.210(d); and

2) The Board or Agency determines that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.245 Financial Assurance for Post-Closure Care

An owner or operator of a hazardous waste management unit subject to the requirements of Section 724.244 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. The owner or operator must choose from among the following options:

a) Post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by

establishing a post-closure trust fund that conforms to the requirements of this subsection (a) and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a new facility must submit the original, signed duplicate of the trust agreement to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be that specified in Section 724.251 and the trust agreement accompanied by a formal certification of acknowledgment (as specified in Section 724.251). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

A) For a new facility, the first payment must be made before the initial receipt of hazardous waste for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Agency before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in subsection (g) of this Section, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by the following formula:

$$\text{Next payment} = \frac{(\text{CE} - \text{CV})}{\text{Y}}$$

Where:

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

B) If an owner or operator establishes a trust fund, as specified in 35 Ill. Adm. Code 725.245(a), and the value of that trust fund is less than the current post-closure cost estimate when a permit is

awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (a)(3) of this Section. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to 35 Ill. Adm. Code 725. The amount of each payment must be determined by the following formula:

$$\text{Next payment} = \frac{(\text{CE} - \text{CV})}{\text{Y}}$$

Where:

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

4) The owner or operator may accelerate payments into the trust fund or owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.

5) If the owner or operator establishes a post-closure trust fund after having used one or more alternative mechanisms specified in this Section or in 35 Ill. Adm. Code 725.245, its first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this subsection (a) and 35 Ill. Adm. Code 725.245, as applicable.

6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.

7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.

8) If an owner or operator substitutes other financial assurance as specified in

this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds, as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) During the period of post-closure care, the Agency must approve a release of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.

11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the trustee to make requirements in those amounts that the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

12) The Agency must agree to termination of the trust when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Section; or

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

b) Surety bond guaranteeing payment into a post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of Treasury updates Circular 570,

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

2) The wording of the surety bond must be that specified in Section 724.251.

3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) of this Section, except as follows:

   A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

   B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:

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

      ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;

      iii) Annual valuations, as required by the trust agreement; and

      iv) Notices of nonpayment, as required by the trust agreement.

4) The bond must guarantee that the owner or operator will do one of the following:

   A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

   B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a U.S. district court or other court of competent jurisdiction; or

   C) Provide alternative financial assurance as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond

from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (g) of this Section.

7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidence by the return receipts.

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

c) Surety bond guaranteeing performance of post-closure care.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (c) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet

from the following website: http://www.fms.treas.gov/c570/.

2) The wording of the surety bond must be that specified in Section 724.251.

3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust must meet the requirements specified in subsection (a) of this Section, except as follows:

   A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

   B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required:

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

      ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;

      iii) Annual valuations, as required by the trust agreement; and

      iv) Notices of nonpayment, as required by the trust agreement.

4) The bond must guarantee that the owner or operator will do either of the following:

   A) Perform final post-closure care in accordance with the post-closure plan and other requirements of the permit for the facility; or

   B) Provide alternative financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, under the terms of the bond the surety will perform post-

closure care in accordance with post-closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate.

7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section. Whenever the current closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) During the period of post-closure care, the Agency must approve a decrease in the penal sum if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

9) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

10) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency must provide such written consent when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance as specified in this Section; or

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

11) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i) of this Section.

d) Post-closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the

requirements of this subsection (d) and submitting the letter to the Agency. An owner or operator of a new facility must submit the letter of credit to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be that specified in Section 724.251.

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

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

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

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

      ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;

      iii) Annual valuations, as required by the trust agreement; and

      iv) Notices of nonpayment, as required by the trust agreement.

4) The letter or credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be

automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (g) of this Section.

7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.

9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, the Agency may draw on the letter of credit.

10) If the owner or operator does not establish alternative financial assurance, as specified in this Section, and obtain written approval of such alternative assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Section; or

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

e) Post-closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection (e) and submitting a certificate of such insurance to the Agency. An owner or operator of a new facility must submit the certificate of insurance to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one or more states.

2) The wording of the certificate of insurance must be that specified in Section 724.251.

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

4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.

5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with

a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator as specified in subsection (e)(11) of this Section. Failure to pay the premium, without substitution of alternative financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act [415 ILCS 5]. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

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

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur, and the policy will remain in full force and effect, in the event that on or before the date of expiration one of the following occurs:

   A) The Agency deems the facility abandoned;

   B) The permit is terminated or revoked or a new permit is denied;

   C) Closure is ordered by the Board or a U.S. district court or other court of competent jurisdiction;

   D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or

   E) The premium due is paid.

9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the life of the facility, the owner or operator, within 60 days after the increase, must either cause the

face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.

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

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

A) An owner or operator substitutes alternative financial assurance, as specified in this Section; or

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

f) Financial test and corporate guarantee for post-closure care.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that it passes a financial test as specified in this subsection (f). To pass this test the owner or operator must meet the criteria of either subsection (f)(1)(A) or (f)(1)(B) of this Section:

A) The owner or operator must have the following:

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

ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least $10 million; and

iv) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

B) The owner or operator must have the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment cost estimates;

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

2) The phrase "current closure and post-closure cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see Section 724.251). The phrase "current plugging and abandonment cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).

3) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded~~,~~ as specified in Section 724.251;~~ and~~

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:

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

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

4) An owner or operator of a new facility must submit the items specified in subsection (f)(3) of this Section to the Agency at least 60 days before the date on which hazardous waste is first received for disposal.

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

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

7) Based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (f)(1) of this Section, the Agency may require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (f)(3) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must provide alternative financial assurance, as specified in this Section, within 30 days after notification of such a finding.

8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B) of this Section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The

owner or operator must provide alternative financial assurance, as specified in this Section, within 30 days after notification of the disallowance.

9) During the period of post-closure care, the Agency must approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Agency that the amount of the cost estimate exceeds the remaining cost of post-closure care.

10) The owner or operator is no longer required to submit the items specified in subsection (f)(3) of this Section when either of the following occurs:

A) An owner or operator substitutes alternative financial assurance, as specified in this Section; or

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

11) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (f)(1) through (f)(9), and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be that specified in Section 724.251. A certified copy of the corporate guarantee must accompany the items sent to the Agency, as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide as follows:

A) That if the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) of this Section in the name of the owner or operator.

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

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

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

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

i) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that the post-closure care period has

been completed for a hazardous waste disposal unit in accordance with the approved plan, the Agency must notify the owner or operator that it is no longer required to maintain financial assurance for post-closure care of that unit, unless the Agency determines that post-closure care has not been in accordance with the approved post-closure plan. The Agency must provide the owner or operator with a detailed written statement of any such determination that post-closure care has not been in accordance with the approved post-closure plan.

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

1) An increase in or a refusal to decrease the amount of a bond, letter of credit, or insurance;

2) Requiring alternative assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (a).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be that specified in Section 724.251. The wording of the certificate of insurance must be that specified in Section 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original

of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances ~~under~~ pursuant to this subsection (a), the owner or operator must specify at least one such assurance as "primary" coverage and must specify other such assurance as "excess" coverage.

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

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

B) A Certification of Valid Claim for bodily injury or property

damages caused by sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage ~~under~~ pursuant to subsections (a)(1) through (a)(6) of this Section; or

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

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, land treatment facility, or disposal miscellaneous unit that is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. This liability coverage may be demonstrated as specified in subsections (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), or (b)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be that specified in Section 724.251. The wording of the certificate of insurance must be that specified in Section 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original

of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances ~~under~~ pursuant to this subsection (b), the owner or operator must specify at least one such assurance as "primary" coverage and must specify other such assurance as "excess" coverage.

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

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

B) A Certification of Valid Claim for bodily injury or property

damages caused by sudden or non-sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage ~~under~~ pursuant to subsections (b)(1) through (b)(6) of this Section; or

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

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted to the Agency as part of the application ~~under~~ pursuant to 35 Ill. Adm. Code 703.182 for a facility that does not have a permit, or pursuant to the procedures for permit modification ~~under~~ pursuant to 35 Ill. Adm. Code 705.128 for a facility that has a permit. If granted, the modification will take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b) of this Section. Any request for an adjusted level of required liability coverage for a permitted facility will be treated as a request for a permit modification ~~under~~ pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required ~~under~~ pursuant to subsection (a) or (b) of this Section as may be necessary to adequately protect human health and the environment. This adjusted level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment,

landfill, or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) of this Section. An owner or operator must furnish to the Agency, within a time specified by the Agency in the request, which must be not be less than 30 days, any information that the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification ~~under~~ pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128.

e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.

f) Financial test for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that it passes a financial test as specified in this subsection (f). To pass this test the owner or operator must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) of this Section:

A) The owner or operator must have the following:

i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;

ii) Tangible net worth of at least $10 million; and

iii) Assets in the United States amounting to either of the following: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator must have the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's;

ii) Tangible net worth of at least $10 million;

iii) Tangible net worth at least six times the amount of liability

coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either of the following: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

2) The phrase "amount of liability coverage," as used in subsection (f)(1) of this Section, refers to the annual aggregate amounts for which coverage is required ~~under~~ pursuant to subsections (a) and (b) of this Section.

3) To demonstrate that it meets this test, the owner or operator must submit the following three items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by Sections 724.243(f) and 724.245(f) and 35 Ill. Adm. Code 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in Section 724.251 to cover both forms of financial responsibility; a separate letter, as specified in Section 724.251, is not required.

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:

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

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

4) An owner or operator of a new facility must submit the items specified in subsection (f)(3) of this Section to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

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

6) If the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

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

g) Guarantee for liability coverage.

1) Subject to subsection (g)(2) of this Section, an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners and operators in subsections (f)(1) through (f)(6) of this Section. The wording of the guarantee must be that specified in Section 724.251. A certified copy of the guarantee must accompany the items sent to the Agency, as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide for the following:

A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be) arising from the operation of facilities covered by this guarantee, or if the owner or operator fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, that the guarantor will do so up to the limits of coverage.

B) That the guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternative liability coverage complying with Section 724.247 or 35 Ill. Adm. Code 725.247.

2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:

A) The guarantee was signed in Illinois by an authorized agent of the guarantor;

B) The guarantee is governed by Illinois law; and

C) The name and address of the guarantor's registered agent for service of process.

3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

h) Letter of credit for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (h), and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

3) The wording of the letter of credit must be that specified in Section 724.251.

4) An owner or operator who uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act [205 ILCS 620].

5) The wording of the standby trust fund must be identical to that specified in Section 724.251(n).

i) Surety bond for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be licensed by the Illinois Department of Insurance.

3) The wording of the surety bond must be that specified in Section 724.251.

j) Trust fund for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this subsection (j) and submitting a signed, duplicate original of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act [205 ILCS 620].

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection (j), "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and ~~nonsudden~~

non-sudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

4) The wording of the trust fund must be that specified in Section 724.251.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 724.275 Containment

a) Container storage areas must have a containment system that is designed and operated in accordance with subsection (b) of this Section, except as otherwise provided by subsection (c) of this Section.;

b) A containment system must be designed and operated as follows:

1) A base must underlay the containers that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

3) The containment system must have sufficient capacity to contain 10 percent of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

4) Run-on into the containment system must be prevented, unless the collection system has sufficient excess capacity in addition to that required in subsection (b)(3) of this Section to contain any run-on that might enter the system; and

5) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

BOARD NOTE: If the collected material is a hazardous waste, it must be managed as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through 728. If the collected

material is discharged through a point source to waters of the State, it is subject to the National Pollution Discharge Elimination System (NPDES) permit requirement of Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.102.

c) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system defined by subsection (b) of this Section, except as provided by subsection (d) of this Section, or provided as follows:

1) That the storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or

2) That the containers are elevated or are otherwise protected from contact with accumulated liquid.

d) Storage areas that store containers holding the wastes listed below that do not contain free liquids must have a containment system defined by subsection (b) of this Section: F020, F021, F022, F023, F026, and F027.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART J: TANK SYSTEMS

Section 724.293 Containment and Detection of Releases

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

1) For a new tank system or component, prior to their being put into service;

2) For all existing tank systems used to store or treat Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027, as defined in 35 Ill. Adm. Code 721.131, within two years after January 12, 1987;

3) For those existing tank systems of known and documented age, within two years after January 12, 1987, or when the tank system has reached 15 years of age, whichever comes later;

4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and

5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within the time intervals required in subsections (a)(1) through (a)(4) of this Section, except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987.

b) Secondary containment systems must fulfill the following:

1) It must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

2) It must be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

c) To meet the requirements of subsection (b) of this Section, secondary containment systems must, at a minimum, fulfill the following:

1) It must be constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);

2) It must be placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression or uplift;

3) It must be provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or at the earliest practicable time if the owner or operator demonstrates, by way of permit application, to the Agency that existing detection technologies or site conditions will not allow detection of a release within 24 hours; and

4) It must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator demonstrates to the Agency, by way of permit application, that removal of the released waste or accumulated

precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through ~~725~~ 728. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Work (POTW), it is subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR 302.6.

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

1) A liner (external to the tank);

2) A vault;

3) A double-walled tank; or

4) An equivalent device, as approved by the Board in an adjusted standards proceeding.

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

1) An external liner system must fulfill the following:

A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within its boundary.

B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

C) It must be free of cracks or gaps.

D) It must be designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tanks (i.e., it is capable of preventing lateral as well as vertical migration of the waste).

2) A vault system must fulfill the following:

A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;

B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) It must be constructed with chemical-resistant water stops in place at all joints (if any);

D) It must be provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

E) It must be provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated fulfills the following:

i) It meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or

ii) It meets the definition of reactive waste under 35 Ill. Adm. Code 721.123, and may form an ignitable or explosive vapor;

F) It must be provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) A double-walled tank must fulfill the following:

A) It must be designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

B) It must be protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

C) It must be provided with a built-in continuous leak detection system capable of detecting a release within 24 hours, or at the

earliest practicable time, if the owner or operator demonstrates, by way of permit application, to the Agency that the existing detection technology or site conditions would not allow detection of a release within 24 hours.

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

f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (b) and (c) of this Section, except as follows:

1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1], and in accordance with 35 Ill. Adm. Code 101 and 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g)(2) of this Section.

1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following

factors:

A) The nature and quantity of the wastes;

B) The proposed alternative design and operation;

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

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

2) When determining whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

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

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

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

iii) The potential for health risk caused by human exposure to waste constituents;

iv) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

v) The persistence and permanence of the potential adverse effects.

B) The potential adverse effects of a release on groundwater quality, taking into account;

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The proximity and withdrawal rates of groundwater users;

iii) The current and future uses of groundwater in the area; and

iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.

C) The potential adverse effects of a release on surface water quality, taking the following into account:

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The patterns of rainfall in the region;

iii) The proximity of the tank system to surface waters;

iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and

v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality.

D) The potential adverse effect of a release on the land surrounding the tank system, taking the following into account:

i) The patterns of rainfall in the region; and

ii) The current and future uses of the surrounding land.

3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system but which has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must do the following:

A) It must comply with the requirements of Section 724.296, except Section 724.296(d); and

B) It must decontaminate or remove contaminated soil to the extent necessary to do the following:

i) Enable the tank system for which the alternative design and operating practices were granted to resume operation with the capability for the detection of releases at least

equivalent to the capability it had prior to the release; and

ii) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; and

C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B) of this Section, the owner or operator must comply with the requirement of Section 724.297(b).

4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system and which has migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must do the following:

A) Comply with the requirements of Section 724.296(a), (b), (c), and (d); and

B) Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 724.297(b); and

C) If repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (a) through (f) of this Section, or make the alternative design and operating practices demonstration to the Board again, and meet the requirements for new tank systems in Section 724.292 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil is decontaminated or removed and groundwater or surface water has not been contaminated.

h) In order to make an alternative design and operating practices, the owner or operator must follow the following procedures in addition to those specified in Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104:

1) The owner or operator must file a petition for approval of alternative design and operating practices according to the following schedule:

A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a) of this Section.

B) For new tank systems, at least 30 days prior to entering into a contract for installation.

2) As part of the petition, the owner or operator must also submit the following to the Board:

A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g)(1) or (g)(2) of this Section; and

B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.

4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.

i) All tank systems, until such time as secondary containment that meets the requirements of this Section is provided, must comply with the following:

1) For non-enterable underground tanks, a leak test that meets the requirements of Section 724.291(b)(5) or other tank integrity methods, as approved or required by the Agency, must be conducted at least annually.

2) For other than non-enterable underground tanks, the owner or operator must do either of the following:

A) Conduct a leak test, as in subsection (i)(1) of this Section, or

B) Develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of

corrosion or erosion observed during the previous inspection and the characteristics of the waste being stored or treated.

3) For ancillary equipment, a leak test or other integrity assessment, as approved by the Agency, must be conducted at least annually.

BOARD NOTE: The practices described in the API Publication, "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as a guideline for assessing the overall condition of the tank system.

4) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) of this Section.

5) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (1)(3) of this Section, the owner or operator must comply with the requirements of Section 724.296.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART K: SURFACE IMPOUNDMENTS

Section 724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring

techniques.

b) The Agency may determine that additional design, operating and monitoring requirements are necessary for surface impoundments managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART L: WASTE PILES

Section 724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in Section 724.350(c)) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

b) The Agency may determine that additional design, operating and monitoring requirements are necessary for piles managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to groundwater, surface water, or air so as to adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART M: LAND TREATMENT

Section 724.372 Treatment Demonstration

a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that the hazardous constituents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required ~~under~~ pursuant to subsection (a) of this Section, it must obtain a treatment or disposal permit ~~under~~ pursuant to 35 Ill. Adm. Code 703.230. The Agency must specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in subsection (c) of this Section.

c) Any field test or laboratory analysis conducted in order to make a demonstration ~~under~~ pursuant to subsection (a) of this Section must meet the following requirements:

1) It must accurately simulate the characteristics and operating conditions for the proposed land treatment unit including the following:

A) The characteristics of the waste (including the presence of constituents of Appendix H to 35 Ill. Adm. Code 721);

B) The climate in the area;

C) The topography of the surrounding area;

D) The characteristics of the soil in the treatment zone (including depth); and

E) The operating practices to be used at the unit;

2) It must be likely to show that hazardous constituents in the waste to be tested will be completely degraded, transformed or immobilized in the treatment zone of the proposed land treatment unit; and

3) It must be conducted in a manner that adequately protects human health and the environment considering the following:

A) The characteristics of the waste to be tested;

B) The operating and monitoring measures taken during the course of the test;

C) The duration of the test;

D) The volume of waste used in the test;

E) In the case of field tests, the potential for migration of hazardous constituents to groundwater or surface water.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.383 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

b) The Agency may determine that additional design, operating and monitoring requirements are necessary for land treatment facilities managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ~~ground-water~~ groundwater, surface water, or air so as to adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART N: LANDFILLS

Section 724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

a) Hazardous wastes F020, F021, F022, F023, F026, and F027 must not be placed in a landfill, unless the owner or operator operates the landfill in accord with a management plan for these wastes that is approved by the Agency pursuant to the standards set out in this subsection (a), and in accord with all other applicable requirements of this Part. The factors to be considered are the following:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through the soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring requirements.

b) The Agency may determine that additional design, operating, and monitoring requirements are necessary for landfills managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to groundwater, surface water, or air so as to adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART O: INCINERATORS

Section 724.440 Applicability

a) The regulations in this Subpart O apply to owners and operators of hazardous waste incinerators (as defined in 35 Ill. Adm. Code 720.110), except as Section 724.101 provides otherwise.

b) Integration of the MACT standards.

1) Except as provided by subsections (b)(2)~~, (b)(3), and (b)(4)~~ through (b)(5) of this Section, the standards of this Part do not apply to a new hazardous waste incineration unit that became subject to RCRA permit requirements after October 12, 2005; or no longer apply when ~~an~~ the owner or operator

of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, ~~under~~ pursuant to 40 CFR 63.1207(j) and ~~63.1210(b)~~ 63.1210(d), documenting compliance with the requirements of subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2) The MACT standards of subpart EEE of 40 CFR 63 do not replace the closure requirements of Section 724.451 or the applicable requirements of Subparts A through H, BB, and CC of this Part.

3) The particulate matter standard of Section 724.443(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14) (When and How Must You Comply with the Standards and Operating Requirements?), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

4) The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from the following events:

   A) Section 724.445(a), requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

   B) Section 724.445(c), requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

5) The particulate matter standard of Section 724.443(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14) and 63.1219(e), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act [415 ILCS 5/9.1 and 39.5] make the federal MACT standards directly applicable to

entities in Illinois and authorize the Agency to issue permits based on the federal standards. Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of subpart EEE of 40 CFR 63. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (~~September~~ Sept. 30,1999)):

> Under this approach . . . , MACT air emissions and related operating requirements are to be included in Title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

c) After consideration of the waste analysis included with Part B of the permit application, the Agency, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure):

1) If the Agency finds that the waste to be burned is one of the following:

A) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;

B) It is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in Section 721.123(a)(4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone;

C) It is a hazardous waste solely because it possesses the characteristic of ignitability, as determined by the test for characteristics of hazardous wastes ~~under~~ pursuant to Subpart C of 35 Ill. Adm. Code 721; or

D) It is a hazardous waste solely because it possesses any of the reactivity characteristics described by 35 Ill. Adm. Code 721.123(a)(1), (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) and will not be burned when other hazardous wastes are present in the combustion zone; and

2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721 that would

reasonably be expected to be in the waste.

d) If the waste to be burned is one that is described by subsection (b)(1)(A), (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this Section and contains insignificant concentrations of the hazardous constituents listed in Subpart H of 35 Ill. Adm. Code 721, then the Agency may, in establishing permit conditions, exempt the applicant from all requirements of this Subpart O, except Section 724.441 (Waste Analysis) and Section 724.451 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Agency finds that the waste will pose a threat to human health or the environment when burned in an incinerator.

e) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of 35 Ill. Adm. Code 703.222 through 703.225 (short-term and incinerator permits).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.451 Closure

At closure the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site.

BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with 35 Ill. Adm. Code 721.103(d), that the residue removed from the incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with applicable requirements of ~~this Subchapter~~ 35 Ill. Adm. Code 722 through 728.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section 724.651 Grandfathered Corrective Action Management Units

a) To implement remedies ~~under~~ pursuant to Section 724.201 or RCRA section 3008(h), or to implement remedies at a permitted facility that is not subject to Section 724.201, the Agency may designate an area at the facility as a corrective action management unit in accordance with the requirements of this Section. "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at that facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

1) Placement of remediation wastes into or within a CAMU does not constitute land disposal of hazardous wastes.

2) Consolidation or placement of remediation wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

b) Designation of a CAMU.

1) The Agency may designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU, or it may incorporate a regulated unit into a CAMU, if the following is true:

A) The regulated unit is closed or closing, meaning it has begun the closure process ~~under~~ pursuant to Section 724.213 or 35 Ill. Adm. Code 725.213; and

B) Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

2) The requirements of Subparts F, G, and H of this Part and the unit-specific requirements of this Part or the 35 Ill. Adm. Code 725 requirements that applied to that regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.

c) The Agency must designate a CAMU in accordance with the following factors:

1) The CAMU must facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

2) Waste management activities associated with the CAMU must not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;

3) The CAMU must include uncontaminated areas of the facility only if including such areas for the purpose of managing remediation waste is more protective than managing such wastes at contaminated areas of the facility;

4) Areas within the CAMU where wastes remain in place after its closure must be managed and contained so as to minimize future releases to the extent practicable;

5) The CAMU must expedite the timing of remedial activity implementation, when appropriate and practicable;

6) The CAMU must enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

7) The CAMU must, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

d) The owner or operator must provide sufficient information to enable the Agency to designate a CAMU in accordance with the standards of this Section.

e) The Agency must specify in the permit the requirements applicable to a CAMU, including the following:

1) The areal configuration of the CAMU.

2) Requirements for remediation waste management, including the specification of applicable design, operation, and closure requirements.

3) Requirements for groundwater monitoring that are sufficient to do the following:

A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU; and

B) Detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU.

4) Closure and post-closure care requirements.

A) Closure of a CAMU must do the following:

i) Minimize the need for further maintenance; and

ii) Control, minimize, or eliminate, to the extent necessary to adequately protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere.

B) Requirements for closure of a CAMU must include the following, as appropriate:

i) Requirements for excavation, removal, treatment, or containment of wastes;

ii) For areas in which wastes will remain after closure of the CAMU, requirements for the capping of such areas; and

iii) Requirements for the removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

C) In establishing specific closure requirements for a CAMU ~~under~~ pursuant to this subsection (e), the Agency must consider the following factors:

i) The characteristics of the CAMU;

ii) The volume of wastes that remain in place after closure;

iii) The potential for releases from the CAMU;

iv) The physical and chemical characteristics of the waste;

v) The hydrological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

vi) The potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.

D) Post-closure care requirements as necessary to adequately protect human health and the environment, including, for areas where wastes will remain in place, monitoring and maintenance activities and the frequency with which such activities must be performed to ensure the integrity of any cap, final cover, or other containment system.

f) The Agency must document the rationale for designating the CAMU and must make such documentation available to the public.

g) Incorporation of a CAMU into an existing permit must be approved by the Agency according to the procedures for Agency-initiated permit modifications ~~under~~ pursuant to 35 Ill. Adm. Code 703.270 through 703.273 or according to the

permit modification procedures of 35 Ill. Adm. Code 703.283.

h) The designation of a CAMU does not change the Agency's existing authority to address cleanup levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.652 Corrective Action Management Units

a) To implement remedies ~~under~~ pursuant to Section 724.201 or RCRA section 3008(h), or to implement remedies at a permitted facility that is not subject to Section 724.201, the Agency may designate an area at the facility as a corrective action management unit ~~under~~ pursuant to the requirements in this Section. "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing CAMU-eligible wastes for implementing corrective action or cleanup at that facility. A CAMU must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

1) "CAMU-eligible waste" means the following:

A) All solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup. As-generated wastes (either hazardous or non-hazardous) from ongoing industrial operations at a site are not CAMU-eligible wastes.

B) Wastes that would otherwise meet the description in subsection (a)(1)(A) of this Section are not CAMU-eligible waste where the following is true:

i) The wastes are hazardous waste found during cleanup in intact or substantially intact containers, tanks, or other non-land-based units found above ground, unless the wastes are first placed in the tanks, containers, or non-land-based units as part of cleanup, or the containers or tanks are excavated during the course of cleanup; or

ii) The Agency makes the determination in subsection (a)(2) of this Section to prohibit the wastes from management in a CAMU.

C) Notwithstanding subsection (a)(1)(A) of this Section, where appropriate, as-generated non-hazardous waste may be placed in a

CAMU where such waste is being used to facilitate treatment or the performance of the CAMU.

2) The Agency must prohibit the placement of waste in a CAMU where the Agency determines that the wastes have not been managed in compliance with applicable land disposal treatment standards of 35 Ill. Adm. Code 728, applicable unit design requirements of this Part or 35 Ill. Adm. Code 725, or other applicable requirements of this Subtitle G, and that the non-compliance likely contributed to the release of the waste.

3) Prohibition against placing liquids in a CAMU.

A) The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the remedy selected for the waste.

B) The requirements in Section 724.414(d) for placement of containers holding free liquids in landfills apply to placement in a CAMU, except where placement facilitates the remedy selected for the waste.

C) The placement of any liquid that is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to Section 724.414(f).

D) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with Section 724.414(c). Sorbents used to treat free liquids in a CAMU must meet the requirements of Section 724.414(e).

4) Placement of CAMU-eligible wastes into or within a CAMU does not constitute land disposal of hazardous waste.

5) Consolidation or placement of CAMU-eligible wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

b) Establishing a CAMU.

1) The Agency must designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU or must incorporate a regulated unit into a CAMU, if it determines that the following is true of a regulated unit:

A) The regulated unit is closed or closing, meaning it has begun the closure process ~~under~~ pursuant to Section 724.213 or 35 Ill. Adm. Code 725.213; and

B) Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

2) The Subpart F, G, and H requirements and the unit-specific requirements of this Part or 35 Ill. Adm. Code 265 that applied to the regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.

c) The Agency must designate a CAMU that will be used for storage or treatment only in accordance with subsection (f) of this Section. The Agency must designate any other CAMU in accordance with the following requirements:

1) The CAMU must facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

2) Waste management activities associated with the CAMU must not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;

3) The CAMU must include uncontaminated areas of the facility, only if including such areas for the purpose of managing CAMU-eligible waste is more protective than management of such wastes at contaminated areas of the facility;

4) Areas within the CAMU, where wastes remain in place after closure of the CAMU, must be managed and contained so as to minimize future releases, to the extent practicable;

5) The CAMU must expedite the timing of remedial activity implementation, when appropriate and practicable;

6) The CAMU must enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

7) The CAMU must, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

d) The owner or operator must provide sufficient information to enable the Agency to designate a CAMU in accordance with the criteria in this Section. This must

include, unless not reasonably available, information on the following:

1) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal or release);

2) Whether the waste was listed or identified as hazardous at the time of disposal or release; and

3) Whether the disposal or release of the waste occurred before or after the land disposal requirements of 35 Ill. Adm. Code 728 were in effect for the waste listing or characteristic.

e) The Agency must specify, in the permit or order, requirements for the CAMU to include the following:

1) The areal configuration of the CAMU.

2) Except as provided in subsection (g) of this Section, requirements for CAMU-eligible waste management to include the specification of applicable design, operation, treatment, and closure requirements.

3) Minimum Design Requirements: a CAMU, except as provided in subsection (f) of this Section, into which wastes are placed must be designed in accordance with the following:

A) Unless the Agency approves alternative requirements ~~under~~ pursuant to subsection (e)(3)(B) of this Section, a CAMU that consists of new, replacement, or laterally expanded units must include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate over the liner. For purposes of this Section, "composite liner" means a system consisting of two components; the upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than $1x10^{-7}$ cm/sec. FML components consisting of high density polyethylene (HDPE) must be at least 60 mil thick. The FML component must be installed in direct and uniform contact with the compacted soil component;

B) Alternative Requirements. The Agency must approve alternative requirements if it determines that either of the following is true:

i) The Agency determines that alternative design and operating practices, together with location characteristics,

will prevent the migration of any hazardous constituents into the groundwater or surface water at least as effectively as the liner and leachate collection systems in subsection (e)(3)(A) of this Section; or

ii) The CAMU is to be established in an area with existing significant levels of contamination, and the Agency determines that an alternative design, including a design that does not include a liner, would prevent migration from the unit that would exceed long-term remedial goals.

4) Minimum treatment requirements: Unless the wastes will be placed in a CAMU for storage or treatment only in accordance with subsection (f) of this Section, CAMU-eligible wastes that, absent this Section, would be subject to the treatment requirements of 35 Ill. Adm. Code 728, and that the Agency determines contain principal hazardous constituents must be treated to the standards specified in subsection (e)(4)(C) of this Section.

A) Principal hazardous constituents are those constituents that the Agency determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

i) In general, the Agency must designate as principal hazardous constituents those contaminants specified in subsection (e)(4)(H) of this Section.

BOARD NOTE: The Board has codified 40 CFR 264.552(e)(4)(i)(A)(1) and (e)(4)(i)(A)(2) as subsections (e)(4)(H)(i) and (e)(4)(H)(ii) of this Section in order to comply with Illinois Administrative Code codification requirements.

ii) The Agency must also designate constituents as principal hazardous constituents, where appropriate, when risks to human health and the environment posed by the potential migration of constituents in wastes to groundwater are substantially higher than cleanup levels or goals at the site~~;~~. ~~when~~ When making such a designation, the Agency must consider such factors as constituent concentrations, and fate and transport characteristics under site conditions.

iii) The Agency must also designate other constituents as principal hazardous constituents that the Agency determines pose a risk to human health and the environment substantially higher than that posed by the

cleanup levels or goals at the site.

B) In determining which constituents are "principal hazardous constituents," the Agency must consider all constituents that, absent this Section, would be subject to the treatment requirements in 35 Ill. Adm. Code 728.

C) Waste that the Agency determines contains principal hazardous constituents must meet treatment standards determined in accordance with subsection (e)(4)(D) or (e)(4)(E) of this Section.

D) Treatment standards for wastes placed in a CAMU.

i) For non-metals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by subsection (e)(4)(D)(iii) of this Section.

ii) For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by subsection (e)(4)(D)(iii) of this Section.

iii) When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal Treatment Standard is not required. Universal Treatment Standards are identified in Table U to 35 Ill. Adm. Code 728.

iv) For waste exhibiting the hazardous characteristic of ignitability, corrosivity, or reactivity, the waste must also be treated to eliminate these characteristics.

v) For debris, the debris must be treated in accordance with 35 Ill. Adm. Code 728.145, or by methods or to levels established ~~under~~ pursuant to subsections (e)(4)(D)(i) through (e)(4)(D)(iv) or subsection (e)(4)(E) of this Section, whichever the Agency determines is appropriate.

vi) Alternatives to TCLP. For metal bearing wastes for which

metals removal treatment is not used, the Agency must specify a leaching test other than Method 1311 (Toxicity Characteristic Leaching Procedure), in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a) to measure treatment effectiveness, provided the Agency determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

E) Adjusted standards. The Board will grant an adjusted standard pursuant to Section 28.1 of the Act to adjust the treatment level or method in subsection (e)(4)(D) of this Section to a higher or lower level, based on one or more of the following factors, as appropriate, if the owner or operator demonstrates that the adjusted level or method would ~~be protective of~~ adequately protect human health and the environment, based on consideration of the following:

i) The technical impracticability of treatment to the levels or by the methods in subsection (e)(4)(D) of this Section;

ii) The levels or methods in subsection (e)(4)(D) of this Section would result in concentrations of principal hazardous constituents (PHCs) that are significantly above or below cleanup standards applicable to the site (established either site-specifically, or promulgated ~~under~~ pursuant to State or federal law);

iii) The views of the affected local community on the treatment levels or methods in subsection (e)(4)(D) of this Section, as applied at the site, and, for treatment levels, the treatment methods necessary to achieve these levels;

iv) The short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in subsection (e)(4)(D) of this Section;

v) The long-term protection offered by the engineering design of the CAMU and related engineering controls under the circumstances set forth in subsection (e)(4)(I) of this Section.

BOARD NOTE: The Board has codified 40 CFR 264.552(e)(4)(v)(E)(*1*) through (e)(4)(v)(E)(*5*) as

subsections (e)(4)(I)(i) through (e)(4)(I)(v) of this Section in order to comply with Illinois Administrative Code codification requirements.

F) The treatment required by the treatment standards must be completed prior to, or within a reasonable time after, placement in the CAMU.

G) For the purpose of determining whether wastes placed in a CAMU have met site-specific treatment standards, the Agency must specify a subset of the principal hazardous constituents in the waste as analytical surrogates for determining whether treatment standards have been met for other principal hazardous constituents if it determines that the specification is appropriate based on the degree of difficulty of treatment and analysis of constituents with similar treatment properties.

H) Principal hazardous constituents that the Agency must designate are the following:

i) Carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above 10^{-3}; and

ii) Non-carcinogens that pose a potential direct risk from ingestion or inhalation at the site an order of magnitude or greater over their reference dose.

I) Circumstances relating to the long-term protection offered by engineering design of the CAMU and related engineering controls are the following:

i) Where the treatment standards in subsection (e)(4)(D) of this Section are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility;

ii) Where cost-effective treatment has been used and the CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at Section 724.401(c) and (d);

iii) Where, after review of appropriate treatment technologies, the Board determines that cost-effective treatment is not reasonably available, and the CAMU meets the Subtitle C liner and leachate collection requirements for new land disposal units at Section 724.401(c) and (d);

iv) Where cost-effective treatment has been used and the principal hazardous constituents in the treated wastes are of very low mobility; or

v) Where, after review of appropriate treatment technologies, the Board determines that cost-effective treatment is not reasonably available, the principal hazardous constituents in the wastes are of very low mobility, and either the CAMU meets or exceeds the liner standards for new, replacement, or a laterally expanded CAMU in subsections (e)(3)(A) and (e)(3)(B) of this Section or the CAMU provides substantially equivalent or greater protection.

5) Except as provided in subsection (f) of this Section, requirements for groundwater monitoring and corrective action that are sufficient to do the following:

A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in groundwater from sources located within the CAMU;

B) Detect and subsequently characterize releases of hazardous constituents to groundwater that may occur from areas of the CAMU in which wastes will remain in place after closure of the CAMU; and

C) Require notification to the Agency and corrective action as necessary to adequately protect human health and the environment for releases to groundwater from the CAMU.

6) Except as provided in subsection (f) of this Section, closure and post-closure requirements, as follows:

A) Closure of corrective action management units must do the following:

i) Minimize the need for further maintenance; and

ii) Control, minimize, or eliminate, to the extent necessary to adequately protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous wastes, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the

atmosphere.

B) Requirements for closure of a CAMU must include the following, as appropriate and as deemed necessary by the Agency for a given CAMU:

i) Requirements for excavation, removal, treatment or containment of wastes; and

ii) Requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU.

C) In establishing specific closure requirements for a CAMU ~~under~~ pursuant to this subsection (e), the Agency must consider the following factors:

i) CAMU characteristics;

ii) Volume of wastes that remain in place after closure;

iii) Potential for releases from the CAMU;

iv) Physical and chemical characteristics of the waste;

v) Hydrological and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and

vi) Potential for exposure of humans and environmental receptors if releases were to occur from the CAMU.

D) Cap requirements:

i) At final closure of the CAMU, for areas in which wastes will remain with constituent concentrations at or above remedial levels or goals applicable to the site after closure of the CAMU, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the performance criteria listed in subsection (e)(6)(F) of this Section, except as provided in subsection (e)(6)(D)(ii) of this Section:

BOARD NOTE: The Board has codified 40 CFR 264.552(e)(6)(iv)(A)(*1*) through (e)(6)(iv)(A)(*5*) as subsections (e)(6)(F)(i) through (e)(6)(F)(v) of this Section

in order to comply with Illinois Administrative Code codification requirements.

ii) The Agency must apply cap requirements that deviate from those prescribed in subsection (e)(6)(D)(i) of this Section if it determines that the modifications are needed to facilitate treatment or the performance of the CAMU (e.g., to promote biodegradation).

E) Post-closure requirements as necessary to adequately protect human health and the environment, to include, for areas where wastes will remain in place, monitoring and maintenance activities, and the frequency with which such activities must be performed to ensure the integrity of any cap, final cover, or other containment system.

F) The final cover design and performance criteria are as follows:

i) Provide long-term minimization of migration of liquids through the closed unit;

ii) Function with minimum maintenance;

iii) Promote drainage and minimize erosion or abrasion of the cover;

iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

f) A CAMU used for storage or treatment only is a CAMU in which wastes will not remain after closure. Such a CAMU must be designated in accordance with all of the requirements of this Section, except as follows:

1) A CAMU that is used for storage or treatment only and that operates in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i) is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c) and (e)(3) through (e)(6) of this Section.

2) A CAMU that is used for storage or treatment only and that does not operate in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i):

A) The owner or operator must operate in accordance with a time limit, established by the Agency, that is no longer than necessary to achieve a timely remedy selected for the waste and

B) The CAMU is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c), (e)(4), and (6) of this Section.

g) A CAMU into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at subsection (e)(3)(A) of this Section, caps at subsection (e)(6)(D) of this Section, groundwater monitoring requirements at subsection (e)(5) of this Section or, for treatment or storage-only a CAMU, the design standards at subsection (f) of this Section.

h) The Agency must provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice must include the rationale for any proposed adjustments ~~under~~ pursuant to subsection (e)(4)(E) of this Section to the treatment standards in subsection (e)(4)(D) of this Section.

i) Notwithstanding any other provision of this Section, the Agency must impose those additional requirements that it determines are necessary to adequately protect human health and the environment.

j) Incorporation of a CAMU into an existing permit must be approved by the Agency according to the procedures for Agency-initiated permit modifications ~~under~~ pursuant to 35 Ill. Adm. Code 703.270 through 703.273, or according to the permit modification procedures of 35 Ill. Adm. Code 703.280 through 703.283.

k) The designation of a CAMU does not change the Agency's existing authority to address cleanup levels, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.653 Temporary Units

a) For temporary tanks and container storage areas used to treat or store hazardous remediation wastes during remedial activities required ~~under~~ pursuant to Section 724.201 or RCRA section 3008(h), or at a permitted facility that is not subject to Section 724.201, the Agency may designate a unit at the facility as a temporary unit. A temporary unit must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the temporary unit originated. For temporary units, the Agency may replace the design, operating,

or closure standards applicable to these units ~~under~~ pursuant to this Part 724 or 35 Ill. Adm. Code 725 with alternative requirements that adequately protect human health and the environment.

b) Any temporary unit to which alternative requirements are applied in accordance with subsection (a) of this Section must be as follows:

1) Located within the facility boundary; and

2) Used only for treatment or storage of remediation wastes.

c) In establishing alternative requirements to be applied to a temporary unit, the Agency must consider the following factors:

1) The length of time such unit will be in operation;

2) The type of unit;

3) The volumes of wastes to be managed;

4) The physical and chemical characteristics of the wastes to be managed in the unit;

5) The potential for releases from the unit;

6) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

7) The potential for exposure of humans and environmental receptors if releases were to occur from the unit.

d) The Agency must specify in the permit the length of time a temporary unit will be allowed to operate, which must be no longer than one year. The Agency must also specify the design, operating, and closure requirements for the unit.

e) The Agency may extend the operational period of a temporary unit once, for no longer than a period of one year beyond that originally specified in the permit, if the Agency determines the following:

1) That continued operation of the unit will not pose a threat to human health and the environment; and

2) That continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

f) Incorporation of a temporary unit or a time extension for a temporary unit into an

existing permit must be as follows:

1) Approved in accordance with the procedures for Agency-initiated permit modifications ~~under~~ pursuant to 35 Ill. Adm. Code 703.270 through 703.273; or

2) Requested by the owner or operator as a Class 2 modification according to the procedures ~~under~~ pursuant to 35 Ill. Adm. Code 703.283.

g) The Agency must document the rationale for designating a temporary unit and for granting time extensions for temporary units and must make such documentation available to the public.

BOARD NOTE: USEPA promulgated 40 CFR 264.553, from which this ~~provision~~ Section was derived, pursuant to HSWA provisions of RCRA Subtitle C. Since the federal provision became immediately effective in Illinois, and until USEPA authorizes this Illinois provision, an owner or operator must seek TU authorization from USEPA Region ~~V~~ 5, as well as authorization from the Agency ~~under~~ pursuant to this ~~provision~~ Section.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.654 Staging Piles

a) Definition of a staging pile. A staging pile is an accumulation of solid, non-flowing remediation waste (as defined in 35 Ill. Adm. Code 720.110) that is not a containment building and which is used only during remedial operations for temporary storage at a facility. A staging pile must be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the staging pile originated. Staging piles must be designated by the Agency in accordance with the requirements in this Section.

1) For the purposes of this Section, storage includes mixing, sizing, blending, or other similar physical operations as long as they are intended to prepare the wastes for subsequent management or treatment.

2) This subsection (a)(2) corresponds with 40 CFR 264.554(a)(2), which USEPA has marked as "reserved." This statement maintains structural consistency with the federal regulations.

b) Use of a staging pile. An owner or operator may use a staging pile to store hazardous remediation waste (or remediation waste otherwise subject to land disposal restrictions) only if an owner or operator follows the standards and design criteria the Agency has designated for that staging pile. The Agency must designate the staging pile in a permit or, at an interim status facility, in a closure plan or order (consistent with 35 Ill. Adm. Code 703.155(a)(5) and (b)(5)). The Agency must establish conditions in the permit, closure plan, or order that comply with

subsections (d) through (k) of this Section.

c) Information that an owner or operator must submit to gain designation of a staging pile. When seeking a staging pile designation, an owner or operator must provide the following:

1) Sufficient and accurate information to enable the Agency to impose standards and design criteria for the facility's staging pile according to subsections (d) through (k) of this Section;

2) Certification by an independent, qualified registered professional engineer of technical data, such as design drawings and specifications, and engineering studies, unless the Agency determines, based on information that an owner or operator provides, that this certification is not necessary to ensure that a staging pile will adequately protect human health and the environment; and

3) Any additional information the Agency determines is necessary to adequately protect human health and the environment.

d) Performance criteria that a staging pile must satisfy. The Agency must establish the standards and design criteria for the staging pile in the permit, closure plan, or order.

1) The standards and design criteria must comply with the following:

A) The staging pile must facilitate a reliable, effective, and protective remedy;

B) The staging pile must be designed so as to prevent or minimize releases of hazardous wastes and hazardous constituents into the environment, and minimize or adequately control cross-media transfer, as necessary to adequately protect human health and the environment (for example, through the use of liners, covers, or runoff and runon controls, as appropriate); and

C) The staging pile must not operate for more than two years, except when the Agency grants an operating term extension ~~under~~ pursuant to subsection (i) of this Section. An owner or operator must measure the two-year limit or other operating term specified by the Agency in the permit, closure plan, or order from the first time an owner or operator places remediation waste into a staging pile. An owner or operator must maintain a record of the date when it first placed remediation waste into the staging pile for the life of the permit, closure plan, or order, or for three years, whichever is longer.

2) In setting the standards and design criteria, the Agency must consider the following factors:

A) The length of time the pile will be in operation;

B) The volumes of wastes the owner or operator intends to store in the pile;

C) The physical and chemical characteristics of the wastes to be stored in the unit;

D) The potential for releases from the unit;

E) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

F) The potential for human and environmental exposure to potential releases from the unit.

e) Receipt of ignitable or reactive remediation waste. An owner or operator must not place ignitable or reactive remediation waste in a staging pile unless the following is true:

1) The owner or operator has treated, rendered, or mixed the remediation waste before it placed the waste in the staging pile so that the following is true of the waste:

A) The remediation waste no longer meets the definition of ignitable or reactive ~~under~~ pursuant to 35 Ill. Adm. Code 721.121 or 721.123; and

B) The owner or operator has complied with Section 724.117(b); or

2) The owner or operator manages the remediation waste to protect it from exposure to any material or condition that may cause it to ignite or react.

f) Managing incompatible remediation wastes in a staging pile. The term "incompatible waste" is defined in 35 Ill. Adm. Code 720.110. An owner or operator must comply with the following requirements for incompatible wastes in staging piles:

1) The owner or operator must not place incompatible remediation wastes in the same staging pile unless an owner or operator has complied with Section 724.117(b);

2) If remediation waste in a staging pile is incompatible with any waste or material stored nearby in containers, other piles, open tanks, or land disposal units (for example, surface impoundments), an owner or operator must separate the incompatible materials, or protect them from one another by using a dike, berm, wall, or other device; and

3) The owner or operator must not pile remediation waste on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to comply with Section 724.117(b).

g) Staging piles are not subject to land disposal restrictions and federal minimum technological requirements. Placing hazardous remediation wastes into a staging pile does not constitute land disposal of hazardous wastes or create a unit that is subject to the federal minimum technological requirements of section 3004(o) of RCRA, 42 USC 6924(o).

h) How long an owner or operator may operate a staging pile. The Agency may allow a staging pile to operate for up to two years after hazardous remediation waste is first placed into the pile. An owner or operator must use a staging pile no longer than the length of time designated by the Agency in the permit, closure plan, or order (the "operating term"), except as provided in subsection (i) of this Section.

i) Receiving an operating extension for a staging pile.

1) The Agency may grant one operating term extension of up to 180 days beyond the operating term limit contained in the permit, closure plan, or order (see subsection (l) of this Section for modification procedures). To justify the need for an extension, an owner or operator must provide sufficient and accurate information to enable the Agency to determine that the following is true of continued operation of the staging pile:

A) Continued operation will not pose a threat to human health and the environment; and

B) Continued operation is necessary to ensure timely and efficient implementation of remedial actions at the facility.

2) The Agency must, as a condition of the extension, specify further standards and design criteria in the permit, closure plan, or order, as necessary, to ensure adequate protection of human health and the environment.

j) The closure requirement for a staging pile located in a previously contaminated area.

1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in a previously contaminated area of the site by removing or decontaminating all of the following:

A) Remediation waste;

B) Contaminated containment system components; and

C) Structures and equipment contaminated with waste and leachate.

2) An owner or operator must also decontaminate contaminated subsoils in a manner and according to a schedule that the Agency determines will adequately protect human health and the environment.

3) The Agency must include the above requirements in the permit, closure plan, or order in which the staging pile is designated.

k) The closure requirement for a staging pile located in a previously uncontaminated area.

1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in an uncontaminated area of the site according to Sections 724.358(a) and 724.211 or according to 35 Ill. Adm. Code 725.358(a) and 725.211.

2) The Agency must include the ~~above~~ requirement of this Section stated in subsection (k)(1) in the permit, closure plan, or order in which the staging pile is designated.

l) Modifying an existing permit (e.g., a RAP), closure plan, or order to allow the use of a staging pile.

1) To modify a permit, other than a RAP, to incorporate a staging pile or staging pile operating term extension, either of the following must occur:

A) The Agency must approve the modification ~~under~~ pursuant to the procedures for Agency-initiated permit modifications in 35 Ill. Adm. Code 703.270 through 703.273; or

B) An owner or operator must request a Class 2 modification ~~under~~ pursuant to 35 Ill. Adm. Code 703.280 through 703.283.

2) To modify a RAP to incorporate a staging pile or staging pile operating term extension, an owner or operator must comply with the RAP modification requirements ~~under~~ pursuant to 35 Ill. Adm. Code 703.304(a) and (b).

3) To modify a closure plan to incorporate a staging pile or staging pile operating term extension, an owner or operator must follow the applicable requirements ~~under~~ pursuant to Section 724.212(c) or 35 Ill. Adm. Code 725.212(c).

4) To modify an order to incorporate a staging pile or staging pile operating term extension, an owner or operator must follow the terms of the order and the applicable provisions of 35 Ill. Adm. Code 703.155(a)(5) or (b)(5).

m) Public availability of information about a staging pile. The Agency must document the rationale for designating a staging pile or staging pile operating term extension and make this documentation available to the public.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART W: DRIP PADS

Section 724.671 Assessment of Existing Drip Pad Integrity

a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 724.673(b). No later than June 6, 1991, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs or modifications necessary to achieve compliance with all of the standards of Section 724.673 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 724.673, except the standards for liners and leak detection systems, specified in Section 724.673(b).

b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of Section 724.673(b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 724.673. The plan must be reviewed and certified by an independent qualified, registered professional engineer. All upgrades, repairs, and modifications must be completed in accordance with the following:

1) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must have been completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.

2) For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.

3) The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.

A) The owner or operator must file a petition for a RCRA variance, as specified in 35 Ill. Adm. Code 104.

B) The Board will grant the petition for extension if it finds the following:

i) The drip pad meets all of the requirements of Section 724.673, except those for liners and leak detection systems specified in Section 724.673(b); and

ii) That it will continue to ~~be protective of~~ adequately protect human health and the environment.

c) Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by an independent, qualified registered professional engineer attesting that the drip pad conforms to the drawings.

d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of Section 724.672(m) or close the drip pad in accordance with Section 724.675.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART X: MISCELLANEOUS UNITS

Section 724.701 Environmental Performance Standards

A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure adequate protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as are necessary to adequately protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of hazardous waste or hazardous constituents from the unit. Permit terms and provisions must include those requirements of Subparts I through O and AA through CC of this Part; 35 Ill. Adm. Code 702, 703, and 730; and federal subpart EEE of 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111(b), that are appropriate for the

miscellaneous unit being permitted. ~~Protection~~ Adequate protection of human health and the environment includes, but is not limited to the following:

a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the groundwater or subsurface environment, considering the following:

1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

2) The hydrologic and geologic characteristics of the unit and the surrounding area;

3) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

4) The quantity and direction of groundwater flow;

5) The proximity to and withdrawal rates of current and potential groundwater users;

6) The patterns of land use in the region;

7) The potential for deposition or migration of waste constituents into subsurface physical structures and the root zone of food-chain crops and other vegetation;

8) The potential for health risks caused by human exposure to waste constituents; and

9) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

b) Prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, in wetlands, or on the soil surface, considering the following:

1) The volume and physical and chemical characteristics of the waste in the unit;

2) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

3) The hydrologic characteristics of the unit and surrounding area, including the topography of the land around the unit;

4) The patterns of precipitation in the region;

5) The quantity, quality, and direction of groundwater flow;

6) The proximity of the unit to surface waters;

7) The current and potential uses of the nearby surface waters and any water quality standards in 35 Ill. Adm. Code 302 or 303;

8) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

9) The patterns of land use in the region;

10) The potential for health risks caused by human exposure to waste constituents; and

11) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering the following:

1) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols, and particulates;

2) The effectiveness and reliability of systems and structures to reduce or prevent emissions of hazardous constituents to the air;

3) The operating characteristics of the unit;

4) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

5) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

6) The potential for health risks caused by human exposure to waste constituents; and

7) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by waste constituents.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 724.702 Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action

Monitoring, testing, analytical data, inspections, response and reporting procedures and frequencies must ensure compliance with Sections 724.115, 724.133, 724.175, 724.176, 724.177, 724.201, and 724.701, as well as any additional requirements needed to adequately protect human health and the environment as specified in the permit.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 724.931 Definitions

As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given them in the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through ~~726~~ 728, and 738.

"Air stripping operation" means a desorption operation employed to transfer one or more volatile components from a liquid mixture into a gas (air) either with or without the application of heat to the liquid. Packed towers, spray towers and bubble-cap, sieve, or valve-type plate towers are among the process configurations used for contacting the air and a liquid.

"Bottoms receiver" means a container or tank used to receive and collect the heavier bottoms fractions of the distillation feed stream that remain in the liquid phase.

"Btu" means British thermal unit.

"Closed-vent system" means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

"Condenser" means a heat-transfer device that reduces a thermodynamic fluid from its vapor phase to its liquid phase.

"Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. For the purposes of reporting and recordkeeping, "connector" means flanged fittings that are not covered by insulation or other materials that prevent location of the fittings.

“Continuous recorder” means a data-recording device recording an instantaneous data value at least once every 15 minutes.

“Control device” means an enclosed combustion device, vapor recovery system, or flare. Any device the primary function of which is the recovery or capture of solvents or other organics for use, reuse, or sale (e.g., a primary condenser on a solvent recovery unit) is not a control device.

“Control device shutdown” means the cessation of operation of a control device for any purpose.

“Distillate receiver” means a container or tank used to receive and collect liquid material (condensed) from the overhead condenser of a distillation unit and from which the condensed liquid is pumped to larger storage tanks or other process units.

“Distillation operation” means an operation, either batch or continuous, separating one or more feed streams into two or more exit streams, each exit stream having component concentrations different from those in the feed streams. The separation is achieved by the redistribution of the components between the liquid and vapor phase as they approach equilibrium within the distillation unit.

“Double block and bleed system” means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.

“Equipment” means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, flange or other connector, and any control devices or systems required by this Subpart AA.

“First attempt at repair” means to take rapid action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

“Flame zone” means the portion of the combustion chamber in a boiler occupied by the flame envelope.

“Flow indicator” means a device that indicates whether gas flow is present in a vent stream.

“Fractionation operation” means a distillation operation or method used to separate a mixture of several volatile components of different boiling points in successive stages, each stage removing from the mixture some proportion of one of the components.

“ft” means foot.

“h” means hour.

“Hazardous waste management unit shutdown” means a work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit. An unscheduled work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit for less than 24 hours is not a hazardous waste management unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping operation are not hazardous waste management unit shutdowns.

“Hot well” means a container for collecting condensate as in a steam condenser serving a vacuum-jet or steam-jet ejector.

“In gas-vapor service” means that the piece of equipment contains or contacts a hazardous waste stream that is in the gaseous state at operating conditions.

“In heavy liquid service” means that the piece of equipment is not in gas-vapor service or in light liquid service.

“In light liquid service” means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20° C, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20° C is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

“In situ sampling systems” means nonextractive samplers or in-line samplers.

“In vacuum service” means that equipment is operating at an internal pressure that is at least 5 kPa below ambient pressure.

“Kg” means kilogram.

“kPa” means kilopascals.

“lb” means pound.

“m” means meter.

“Mg” means Megagrams, or metric tonnes.

“MJ” means Megajoules, or ten to the sixth Joules.

“MW” means Megawatts.

“Malfunction” means any sudden failure of a control device or a hazardous waste

management unit or failure of a hazardous waste management unit to operate in a normal or usual manner, so that organic emissions are increased.

“Open-ended valve or line” means any valve, except a pressure relief valve, that has one side of the valve seat in contact with hazardous waste and one side open to the atmosphere, either directly or through open piping.

“ppmv” means parts per million by volume.

“ppmw” means parts per million by weight.

“Pressure release” means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device.

“Process heater” means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that are heated to produce steam.

“Process vent” means any open-ended pipe or stack that is vented to the atmosphere either directly, through a vacuum-producing system, or through a tank (e.g., distillate receiver, condenser, bottoms receiver, surge control tank, separator tank, or hot well) associated with hazardous waste distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations.

“Repaired” means that equipment is adjusted or otherwise altered to eliminate a leak.

“s” means second.

“Sampling connection system” means an assembly of equipment within a process or waste management unit that is used during periods of representative operation to take samples of the process or waste fluid. Equipment that is used to take non-routine grab samples is not considered a sampling connection system.

“scm” means standard cubic meter.

“scft” means standard cubic foot.

“Sensor” means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

“Separator tank” means a device used for separation of two immiscible liquids.

“Solvent extraction operation” means an operation or method of separation in which a solid or solution is contracted with a liquid solvent (the two being mutually insoluble) to preferentially dissolve and transfer one or more

components into the solvent.

"Startup" means the setting in operation of a hazardous waste management unit or control device for any purpose.

"Steam stripping operation" means a distillation operation in which vaporization of the volatile constituents of a liquid mixture takes place by the introduction of steam directly in to the charge.

"Surge control tank" means a large-sized pipe or storage reservoir sufficient to contain the surging liquid discharge of the process tank to which it is connected.

"Thin-film evaporation operation" means a distillation operation that employs a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical. Liquid is spread on the tube wall by a rotating assembly of blades that maintain a close clearance from the wall or actually ride on the film of liquid on the wall.

"USDOT" means the United States Department of Transportation.

"Vapor incinerator" means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

"Vented" means discharged through an opening, typically an open-ended pipe or stack, allowing the passage of a stream of liquids, gases, or fumes into the atmosphere. The passage of liquids, gases, or fumes is caused by mechanical means, such as compressors or vacuum-producing systems, or by process-related means, such as evaporation produced by heating, and not caused by tank loading and unloading (working losses) or by natural means, such as diurnal temperature changes.

"yr" means year.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 724.951 Definitions

As used in this Subpart BB, all terms have the meaning given them in Section 724.931, the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through ~~726~~ 728, and 738.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

Section 724.981 Definitions

As used in this Subpart CC, all terms will have the meaning given to them in 35 Ill. Adm. Code 725.981~~, RCRA,~~ and 35 Ill. Adm. Code ~~720.110~~ 720 through 728.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

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

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725.Appendix E Examples of Potentially Incompatible Wastes
725.Appendix F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999;

amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope, and Applicability

a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are fulfilled.

b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste and which have fully complied with the requirements for interim status ~~under~~ pursuant to Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6925(e)) and 35 Ill. Adm. Code 703, until either a permit is issued ~~under~~ pursuant to Section 3005 of the Resource Conservation and Recovery Act (42 USC 6905) or Section 21(f) of the Environmental Protection Act [415 ILCS 5/21(f)], or until applicable closure and post-closure care responsibilities ~~under~~ pursuant to this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by Section 3010(a) of RCRA (42 USC 6910(a)) or that have failed to file Part A of the Permit Application, as required by federal 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or in 35 Ill. Adm. Code 721.

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

c) The requirements of this Part do not apply to any of the following:

1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued ~~under~~ pursuant to the federal Marine Protection, Research

and Sanctuaries Act (33 USC 1401 et seq.);

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

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

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

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

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

5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation ~~under~~ pursuant to this Part by 35 Ill. Adm. Code 721.105;

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

7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;

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

9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

10) The owner or operator of an elementary neutralization unit or a wastewater

treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T of 35 Ill. Adm. Code 728) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set forth in Section 725.117(b);

11) Immediate response.

A) Except as provided in subsection (c)(11)(B) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

i) A discharge of a hazardous waste;

ii) An imminent and substantial threat of a discharge of a hazardous waste;

iii) A discharge of a material that becomes a hazardous waste when discharged; or

iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D of this Part.

C) Any person that is covered by subsection (c)(11)(A) of this Section that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;

D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to adequately protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a

manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;

14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 733 when handling the following universal wastes:

A) Batteries, as described in 35 Ill. Adm. Code 733.102;

B) Pesticides, as described in 35 Ill. Adm. Code 733.103;

C) ~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;~~ and~~

D) Lamps, as described in 35 Ill. Adm. Code 733.105~~; and~~.

~~E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (c)(14)(E) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

d) The following hazardous wastes must not be managed at facilities subject to regulation ~~under~~ pursuant to this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027, unless the following conditions are fulfilled:

1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

2) The waste is stored in tanks or containers;

3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of Subpart L of this Part;

4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or

5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.

e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.

f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste ~~under~~ pursuant to 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738.

g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 725.153 Copies of Contingency Plan

~~A copy~~ The facility owner or operator must undertake each of the following actions with regard

to copies of the contingency plan and all revisions to the plan ~~must be disposed as follows~~:

a) ~~They~~ It must ~~be maintained~~ maintain a copy at the facility; and

b) ~~They~~ It must ~~be submitted~~ submit a copy to ~~all~~ each local police ~~departments~~ department, fire ~~departments~~ department, ~~hospitals~~ hospital, and State and local emergency response ~~teams~~ team that may be called upon to provide emergency services at the facility.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: GROUNDWATER MONITORING

Section 725.190 Applicability

a) The owner or operator of a surface impoundment, landfill, or land treatment facility that is used to manage hazardous waste must implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility, except as Section 725.101 and subsection (c) of this Section provide otherwise.

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

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

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

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

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

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

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

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

d) If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters in accordance with Sections 725.191 and 725.192 would show statistically significant increases (or decreases in the case of pH) when evaluated ~~under~~ pursuant to Section 725.193(b), it may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in Sections 725.191 and 725.192). If the owner or operator decides to use an alternate groundwater monitoring system it must have done as follows:

1) By November 19, 1981, the owner or operator must have submitted to the USEPA Region 5 a specific plan, certified by a qualified geologist or geotechnical engineer, that satisfies the requirements of federal 40 CFR 265.93(d)(3) for an alternate groundwater monitoring system;

2) By November 19, 1981, the owner or operator must have initiated the determinations specified in federal 40 CFR 265.93(d)(4);

3) The owner or operator must have prepared and submitted a written report in accordance with Section 725.193(d)(5);

4) The owner or operator must continue to make the determinations specified in Section 725.193(d)(4) on a quarterly basis until final closure of the facility; and

5) The owner or operator must comply with the recordkeeping and reporting requirements in Section 725.194(b).

e) The groundwater monitoring requirements of this Subpart F may be waived with respect to any surface impoundment of which the following is true:

1) The impoundment is used to neutralize wastes that are hazardous solely because they exhibit the corrosivity characteristic ~~under~~ pursuant to 35 Ill. Adm. Code 721.122 or which are listed as hazardous wastes in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

2) The impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of

hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional.

f) A permit or enforceable document can contain alternative requirements for groundwater monitoring that replace all or part of the requirements of this Subpart F applicable to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.161, where the Board has determined by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 the following:

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the groundwater monitoring requirements of this Subpart F because the alternative requirements will adequately protect human health and the environment. The alternative standards for the regulated unit must meet the requirements of 35 Ill. Adm. Code 724.201(a).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section 725.210 Applicability

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

a) Sections 725.211 through 725.215 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

b) Sections 725.216 through 725.220 (which concern post-closure care) apply to the owners and operators of the following:

1) All hazardous waste disposal facilities;

2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these Sections are made applicable to such facilities in Section 725.328 or 725.358;

3) Tank systems that are required ~~under~~ pursuant to Section 725.297 to meet

requirements for landfills; or

4) Containment buildings that are required ~~under~~ pursuant to Section 725.1102 to meet the requirement for landfills.

c) Section 725.221 applies to owners and operators of units that are subject to the requirements of 35 Ill. Adm. Code 703.161 and which are regulated under an enforceable document (as established pursuant to 35 Ill. Adm. Code 703.161).

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

1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management units (or areas of concern) are likely to have contributed to the release; and

2) It is not necessary to apply the closure requirements of this Subpart G (and those referenced herein) because the alternative requirements will adequately protect human health and the environment, and will satisfy the closure performance standard of Section 725.211 (a) and (b).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.211 Closure Performance Standard

The owner or operator must close the facility in a manner that does the following:

a) The closure minimizes the need for further maintenance;

b) The closure controls, minimizes, or eliminates, to the extent necessary to adequately protect ~~to~~ human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

c) The closure complies with the closure requirements of this Part, including, but not limited to, the requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.213 Closure; Time Allowed for Closure

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

1) The need to remain in operation by showing either of the following conditions exists:

A) The activities required to comply with this subsection (a) ~~of this Section~~ will, of necessity, take longer than 90 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) of this Section;

ii) There is a reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable interim status requirements.

b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements of subsections (d) and (e) of this Section at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Agency must approve an extension to the closure period if the owner or operator demonstrates

the following:

1) The need to remain in operation by showing either of the following conditions exists:

A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section; and

ii) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must be made as follows:

1) The demonstration in subsection (a)(1) of this Section must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) of this Section; and

2) The demonstrations in subsection (b)(1) of this Section must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this Section, unless the owner or operator is otherwise subject to deadlines in subsection (d) of this Section.

d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive non-hazardous wastes in a landfill, land treatment unit or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following are true:

1) The owner or operator submits an amended Part B application, or a new Part B application if none was previously submitted, and demonstrates the following:

   A) The unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;

   B) There is a reasonable likelihood that the owner or operator or another person will receive non-hazardous waste in the unit within one year after the final receipt of hazardous wastes;

   C) The non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility ~~under~~ pursuant to this Part;

   D) Closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and

   E) The owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements;

2) The Part B application includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required ~~under~~ pursuant to 35 Ill. Adm. Code 703.186, closure and post-closure care plans, updated cost estimates, and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes and changes in closure activities, including the expected year of closure, if applicable ~~under~~ pursuant to Section 725.212(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes;

3) The Part B application is amended, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

4) The Part B application and the demonstrations referred to in subsections (d)(1) and (d)(2) of this Section are submitted to the Agency no later than 180 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes or no later than 90 days after this Section applies to the facility, whichever is later.

e) Surface impoundments. In addition to the requirements in subsection (d) of this Section, an owner or operator of a hazardous waste surface impoundment that is

not in compliance with the liner and leachate collection system requirements in Section 725.321(a) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).

1) The petition for adjusted standard must include the following:

   A) A plan for removing hazardous wastes; and

   B) A contingent corrective measures plan.

2) The removal plan must provide for the following:

   A) Removing all hazardous liquids;

   B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and

   C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:

      i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and

      ii) That an extension will not pose a threat to human health and the environment.

3) The following is required of contingent corrective measures plan:

   A) It must meet the requirements of a corrective action plan ~~under~~ pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.

   B) It may be a portion of a corrective action plan previously submitted ~~under~~ pursuant to Section 724.199.

   C) It may provide for continued receipt of non-hazardous wastes at the unit following a release only if the owner or operator demonstrates that continued receipt of wastes will not impede corrective action.

   D) It must provide for implementation within one year after a release, or within one year after the grant of the adjusted standard, whichever is later.

4) Release. A release is a statistically significant increase (or decrease in the

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

5) In the event of a release, the owner or operator of the unit must perform the following actions:

A) Within 35 days, the owner or operator must file with the Board a petition for adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104. If the Board finds that it is necessary to do so in order to adequately protect human health and the environment, the Board will modify the adjusted standard to require the owner or operator to perform either of the following actions:

i) Begin to implement the corrective measures plan in less than one year; or

ii) Cease the receipt of wastes until the plan has been implemented.

iii) The Board will retain jurisdiction or condition the adjusted standard so as to require the filing of a new petition to address any required closure pursuant to subsection (e)(7) of this Section;

B) The owner or operator must implement the contingent corrective measures plan; and

C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.

6) Semi-annual report. During the period of corrective action, the owner or operator must provide semi-annual reports to the Agency that fulfill the following requirements:

A) They describe the progress of the corrective action program;

B) They compile all groundwater monitoring data; and

C) They evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

7) Required closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.

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

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

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

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

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

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

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

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

i) A plan for removing hazardous wastes;

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

iii) A contingent corrective measures plan;

iv) A requirement that, in the event of a release, the owner or operator must, within 35 days, file with the Board a petition for adjusted standard, implement the corrective measures

plan, and file semi-annual reports with the Agency;

v) A condition that the adjusted standard will terminate if the owner or operator fails to implement the removal plan or timely file a required petition for adjusted standard; and

vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure of the unit in accordance with the requirements of the closure plan and this Part.

D) Justification in the event of a release. The Board will modify or terminate the adjusted standard pursuant to a petition filed ~~under~~ pursuant to subsection (e)(5)(A) of this Section, as provided in that subsection or in subsection (e)(7) of this Section.

9) The owner or operator may file a revised closure plan within 15 days after an adjusted standard is terminated.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.217 Post-Closure Care and Use of Property

a) Post-closure care.

1) Post-closure care for each hazardous waste management unit subject to the requirements of Sections 725.217 through 725.220 must begin after completion of closure of the unit and continue for 30 years after that date. It must consist of at least the following:

A) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and

B) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this Part.

2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Board will, by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 or by an order in some other appropriate type of proceeding (e.g., an enforcement proceeding), do the following:

A) Shorten the post-closure care period applicable to the hazardous

waste management unit, or facility, if all disposal units have been closed, if the Board finds that the reduced period is sufficient to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results; characteristics of the hazardous waste; application of advanced technology; or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

B) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Board finds that the extended period is necessary to adequately protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels that may be harmful to human health and the environment).

3) As provided by Section 725.218(i), the Board will utilize site-specific rulemaking to adjust the length of the post-closure care period.

b) The Agency must require, at partial or final closure, continuation of any of the security requirements of Section 725.214 during part or all of the post-closure period when either of the following occurs:

1) Hazardous wastes may remain exposed after completion of partial or final closure; or

2) Access by the public or domestic livestock may pose a hazard to human health.

c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liners, or any other components of any containment system or the function of the facility's monitoring systems, unless the Agency determines either of the following with respect to the disturbance:

1) It is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

2) It is necessary to reduce a threat to human health or the environment.

d) All post-closure care activities must be performed in accordance with the provisions of the approved post-closure plan, as specified in Section 725.218.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.219 Post-Closure Notices

Within 90 days after closure is completed, the owner or operator of a disposal facility must submit to the County Recorder and to the Agency a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the County Recorder must contain a note, prominently displayed, that states the owner's or operator's obligation to restrict disturbance of the site as specified in Section 725.217(c). In addition, the owner or operator must submit to the Agency and to the County Recorder a record of the type, location, and quantity of hazardous waste disposed of within each cell or area of the facility. The owner or operator must identify the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. For wastes disposed of before these regulations were promulgated, the owner or operator must identify the type, location, and quantity of the wastes to the best of his knowledge and in accordance with any records the owner or operator has kept.

a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the County Recorder, to any local zoning authority, or any authority with jurisdiction over local land use, and to the Agency, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of the owner or operator's knowledge and in accordance with any records the owner or operator has kept.

b) Within 60 days after certification of closure of the first hazardous waste disposal unit and within 60 days after certification of closure of the last hazardous waste disposal unit, the owner or operator must do the following:

1) Record, in accordance with Illinois law, a notation on the deed to the facility property, or on some other instrument that is normally examined during title search, that will in perpetuity notify any potential purchaser of the property of the following:

A) The land has been used to manage hazardous wastes;

B) Its use is restricted ~~under~~ pursuant to Subpart G of ~~35 Ill. Adm. Code 725~~ this Part; and

C) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by Sections 725.216 and 725.219(a) have been filed with the County Recorder, any local zoning authority, or any authority with jurisdiction over local land use, and with the Agency; and

2) Submit to the Agency a certification signed by the owner or operator that the owner or operator has recorded the notation specified in subsection (b)(1) of this Section, together with a copy of the document in which the notation has been placed.

c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues; the liner, if any; and all contaminated structures, equipment, and soils, such person must request a modification to the approved post-closure plan in accordance with the requirements of Section 725.218(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 725.217(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 702, 703, ~~and~~ 720 through ~~726~~ 728, and 738. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Agency approve either of the following:

1) Removal of the notation on the deed to the facility property or other instrument normally examined during title search, or

2) Addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS

Section 725.240 Applicability

a) The requirements of Sections 725.242, 725.243, and 725.247 through 725.250 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in Section 725.101.

b) The requirements of Sections 725.244 and 725.246 apply only to owners and operators of any of the following:

1) Disposal facilities;

2) Tank systems that are required ~~under~~ pursuant to Section 725.297 to meet the requirements for landfills; or

3) Containment buildings that are required ~~under~~ pursuant to Section 725.1102 to meet the requirements for landfills.

c) States and the federal government are exempt from the requirements of this Subpart H.

d) A permit or enforceable document can contain alternative requirements that replace all or part of the financial assurance requirements of this Subpart H applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the Board or Agency has done the following:

1) The Board, by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, has established alternative requirements for the regulated unit established ~~under~~ pursuant to Section 725.190(f) or Section 724.210(d); and

2) The Board has determined that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.247 Liability Requirements

a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated, as specified in subsections (a)(1) through (a)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (a)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed

by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances ~~under~~ pursuant to this subsection (b)(6), the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

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

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

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

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

b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility that is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. An owner or operator that combines coverage levels for sudden and nonsudden accidental occurrences must maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. This liability coverage may be demonstrated, as specified in subsections (b)(1) through (b)(6) of this Section:

1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.

3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.

4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.

5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.

6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances ~~under~~ pursuant to this subsection, the owner or operator must specify at least one such assurance as "primary" coverage, and must specify other such assurance as "excess" coverage.

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

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

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

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

(b)(6) of this Section.

c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted in writing to the Agency. If granted, the Agency's action must take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator that requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b) of this Section. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request ~~under~~ pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) of this Section are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required ~~under~~ pursuant to subsection (a) or (b) of this Section as may be necessary to adequately protect human health and the environment. This adjusted level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from ~~nonsudden~~ non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) of this Section. An owner or operator must furnish to the Agency, within a time specified by the Agency in the request, which must not be less than 30 days, any information that the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. The Agency must process any request for an adjusted level of required liability coverage as if it were a permit modification request ~~under~~ pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency must hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision

to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.

f) Financial test for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (f)(1). To pass this test the owner or operator must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) of this Section:

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

i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;

ii) Tangible net worth of at least $10 million; and

iii) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

B) The owner or operator must have each of the following:

i) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth of at least $10 million;

iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either of the following: at least 90 percent of total assets or at least six times the amount of liability coverage to be demonstrated

by this test.

2) The phrase "amount of liability coverage," as used in subsection (f)(1) of this Section, refers to the annual aggregate amounts for which coverage is required ~~under~~ pursuant to subsections (a) and (b) of this Section.

3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following three items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter, as specified in 35 Ill. Adm. Code 724.251 is not required.

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating as follows:

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

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

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

6) If the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount

of required liability coverage, as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

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

g) Guarantee for liability coverage.

1) Subject to subsection (g)(2) of this Section, an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners and operators in subsections (f)(1) through (f)(6) of this Section. The wording of the guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide as follows:

A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

B) The guarantee remains in force unless the guarantor sends notice

of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with Section 725.247 or 35 Ill. Adm. Code 724.247.

2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:

A) The guarantee was signed in Illinois by an authorized agent of the guarantor;

B) The guarantee is governed by Illinois law; and

C) The name and address of the guarantor's registered agent for service of process.

3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

h) Letter of credit for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.

3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

4) An owner or operator that uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

5) The wording of the standby trust fund must be identical to the wording specified in 35 Ill. Adm. Code 724.251(n).

i) Surety bond for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be licensed by the Illinois Department of Financial and Professional Regulation, Division of Insurance.

3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

j) Trust fund for liability coverage.

1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund that conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance, as specified in this Section, to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART J: TANK SYSTEMS

Section 725.293 Containment and Detection of Releases

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

1) For a new tank system or component, prior to its being put into service;

2) For all existing tanks used to store or treat USEPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027, as defined in 35 Ill. Adm. Code 721.131, within two years after January 12, 1987;

3) For those existing tank systems of known and documentable age, within two years after January 12, 1987, or when the tank systems have reached 15 years of age, whichever come later;

4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age or within two years of January 12, 1987, whichever comes later; and

5) For tank systems that store or treat materials that become hazardous wastes subsequent to January 12, 1987, within the time intervals required in subsections (a)(1) through (a)(4) of this Section, except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987.

b) Secondary containment systems must be as follows:

1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

c) To meet the requirements of subsection (b) of this Section, secondary containment systems must be at a minimum as follows:

1) Constructed of or lined with materials that are compatible with the wastes

to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;

3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;

4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through ~~725~~ 728. If the collected material is discharged through a point source to waters of the State, it is subject to the NPDES permit requirement of Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code 309. If discharged to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the collected material is released to the environment, it may be subject to the reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR 302.6.

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

1) A liner (external to the tank);

2) A vault;

3) A double-walled tank; or

4) An equivalent device as approved by the Board in an adjusted standards proceeding.

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

1) External liner systems must be as follows:

A) Designed or operated to contain 100 percent of the capacity of the largest tank within the liner system's boundary;

B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) Free of cracks or gaps; and

D) Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if released from the tanks (i.e., capable of preventing lateral as well as vertical migration of the waste).

2) Vault systems must be as follows:

A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;

B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) Constructed with chemical-resistant water stops in place at all joints (if any);

D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or

treated:

i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or

ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and

F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) Double-walled tanks must be as follows:

A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;

B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

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

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

f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (c) and (h) of this Section, except for the following:

1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1], and in accordance with Subpart D of 35 Ill. Adm. Code 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g)(2) of this Section.

1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:

A) The nature and quantity of the waste;

B) The proposed alternate design and operation;

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

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

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

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

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

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

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

iv) The potential for damage to wildlife; crops, vegetation, and physical structures caused by exposure to waste constituents; and

v) The persistence and permanence of the potential adverse effects;

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

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The proximity and withdrawal rates of water in the area;

iii) The current and future uses of groundwater in the area; and

iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

C) The potential adverse effects of a release on surface water quality, taking the following into account:

i) The quantity and quality of groundwater and the direction of groundwater flow;

ii) The patterns of rainfall in the region;

iii) The proximity of the tank system to surface waters;

iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and

v) The existing quality of surface water, including other sources of contamination and the cumulative impact on

surface water quality; and

D) The potential adverse effects of a release on the land surrounding the tank system, taking the following into account:

i) The patterns of rainfall in the region; and

ii) The current and future uses of the surrounding land.

3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must fulfill the following requirements:

A) It must comply with the requirements of Section 725.296, except Section 725.296(d); and

B) It must decontaminate or remove contaminated soil to the extent necessary to assure the following:

i) It must enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.

C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), it must comply with the requirements of Section 725.297(b).

4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, must fulfill the following requirements:

A) It must comply with the requirements of Section 725.296(a), (b), (c), and (d); and

B) It must prevent the migration of hazardous waste or hazardous

constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 725.297(b);

C) If repairing, replacing, or reinstalling the tank system, it must provide secondary containment in accordance with the requirements of subsections (a) through (f) of this Section, or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the requirements for new tank systems in Section 725.292 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil is decontaminated or removed, and groundwater or surface water has not been contaminated.

h) In order to make an alternative design and operating practices demonstration, the owner or operator must follow the following procedures, in addition to those specified in Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104:

1) The owner or operator must file a petition for approval of alternative design and operating practices according to the following schedule:

A) For existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with subsection (a) of this Section; and

B) For new tank systems, at least 30 days prior to entering into a contract for installation of the tank system.

2) As part of the petition, the owner or operator must also submit the following to the Board:

A) A description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (g)(1) or (g)(2) of this Section; and

B) The portion of the Part B permit application specified in 35 Ill. Adm. Code 703.202.

3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.

4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.

i) All tank systems, until such time as secondary containment meeting the requirements of this Section is provided, must comply with the following:

1) For non-enterable underground tanks, a leak test that meets the requirements of Section 725.291(b)(5) must be conducted at least annually.

2) For other than non-enterable underground tanks and for all ancillary equipment, an annual leak test, as described in subsection (i)(1) of this Section, or an internal inspection or other tank integrity examination, by an independent, qualified, registered professional engineer, that addresses cracks, leaks, corrosion and erosion must be conducted at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

BOARD NOTE: The practices described in API Publication "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, when applicable, as guidelines for assessing the overall condition of the tank system.

3) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (i)(1) through (i)(3) of this Section.

4) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (i)(1) through (i)(3) of this Section, the owner or operator must comply with the requirements of Section 725.296.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART O: INCINERATORS

Section 725.451 Closure

At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including but not limited to ash, scrubber waters, and scrubber sludges) from the incinerator.

BOARD NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with Section 721.103(d), that the residue removed from his incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722 through ~~726 and~~ 728.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART W: DRIP PADS

Section 725.541 Assessment of Existing Drip Pad Integrity

a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 725.543(b). No later than June 6, 1991, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all of the standards of Section 725.543 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 725.543, except the standards for liners and leak detection systems specified in Section 725.543(b).

b) The owner or operator must develop a written plan for upgrading, repairing and modifying the drip pad to meet the requirements of Section 725.543(b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 725.543. The plan must be reviewed and certified by an independent qualified, registered professional engineer. All upgrades, repairs, and modifications must be completed in accordance with the following:

1) For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must be completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.

2) For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.

3) The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.

A) The owner or operator must file a petition for a RCRA variance, as specified in Subpart B of 35 Ill. Adm. Code 104.

B) The Board will grant the petition for extension if it finds the following:

i) The drip pad meets all of the requirements of Section 725.543, except those for liners and leak detection systems specified in Section 725.543(b); and

ii) That it will continue to ~~be protective of~~ adequately protect human health and the environment.

c) Upon completion of all repairs and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by an independent, qualified, registered professional engineer attesting that the drip pad conforms to the drawings.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 725.931 Definitions

As used in this Subpart AA, all terms not defined in this Subpart AA have the meaning given them in 35 Ill. Adm. Code 724.931, the Resource Conservation and Recovery Act, and 35 Ill. Adm. Code 720 through ~~726~~ 728, and 738.

"BTU" means British thermal unit.

"ft" means foot.

"h" means hour.

"kg" means kilogram.

"kPa" means kilopascals.

"lb" means pound.

"m" means meter.

"Mg" means Megagrams, or metric tonnes.

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

"MW" means Megawatts.

"ppmv" means parts per million by volume.

"ppmw" meant parts per million by weight.

"s" means second.

"scm" means standard cubic meter.

"scft" meant standard cubic foot.

"yr" means year.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 725.951 Definitions

As used in this Subpart BB, all terms have the meaning given them in Section 725.931, the Resource Conservation and Recovery Act and 35 Ill. Adm. Code 720 through ~~726~~ 728, and 738.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

Section 725.980 Applicability

a) The requirements of this Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers that are subject to Subpart I, J, or K of this Part, except as Section 725.101 and subsection (b) of this Section provide otherwise.

b) The requirements of this Subpart CC do not apply to the following waste management units at the facility:

1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste ~~is~~ was added to the unit on or after December 6, 1996;

2) A container that has a design capacity less than or equal to 0.1 m^3 (3.5 ft^3 or 26.4 gal);

3) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

4) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan;

5) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required pursuant to the Act or Board regulations or ~~under~~ pursuant to the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar federal or State authorities;

6) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations ~~under~~ pursuant to the authority of the Atomic Energy Act of 1954 (42 USC 2011 et seq.) and the Nuclear Waste Policy Act of 1982 (42 USC 10101 et seq.);

7) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable federal Clean Air Act regulation codified ~~under~~ pursuant to 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), or 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories). For the purpose of complying with this subsection (b)(7), a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of Section 725.985(i), except as provided in Section 725.983(c)(5); and

8) A tank that has a process vent, as defined in 35 Ill. Adm. Code 725.931.

c) For the owner and operator of a facility subject to this Subpart CC that has received a final RCRA permit prior to December 6, 1996, the following requirements apply:

1) The requirements of Subpart CC of 35 Ill. Adm. Code 724 must be incorporated into the permit when the permit is reissued, renewed, or

modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705.

2) Until the date when the permit is reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705, the owner and operator is subject to the requirements of this Subpart CC.

d) The requirements of this Subpart CC, except for the recordkeeping requirements specified in Section 725.990(i), are stayed for a tank or container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations, when the owner or operator of the unit meets all of the following conditions:

1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purposes of this subsection, "organic peroxide" means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical;

2) The owner or operator prepares documentation, in accordance with Section 725.990(i), explaining why an undue safety hazard would be created if air emission controls specified in Sections 725.985 through 725.988 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of subsection (d)(1) of this Section; and

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 725.981 Definitions

As used in this Subpart CC and in 35 Ill. Adm. Code 724, all terms not defined herein will have

the meanings given to them in the Act and 35 Ill. Adm. Code 720 through ~~726~~ 728.

"Average volatile organic concentration" or "average VO concentration" means the mass-weighted average volatile organic concentration of a hazardous waste, as determined in accordance with the requirements of Section 725.984.

"Closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover so that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).

"Continuous seal" means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.

"Cover" means a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, and gauge wells) that are necessary for operation, inspection, maintenance, or repair of the unit on which the cover is used. A cover may be a separate piece of equipment that can be detached and removed from the unit or a cover may be formed by structural features permanently integrated into the design of the unit.

"Enclosure" means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

"External floating roof" means a pontoon-type or double-deck type cover that rests on the surface of a hazardous waste being managed in a tank with no fixed roof.

"Fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

"Floating membrane cover" means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.

"Floating roof" means a cover consisting of a double-deck, pontoon single-deck, or internal floating cover that rests upon and is supported by the material being contained, and is equipped with a continuous seal.

"Hard-piping" means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.

"In light material service" means that the container is used to manage a material for which both of the following conditions apply: the vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20°C (1.2 inches H_2O at 68°F); and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20°C (1.2 inches H_2O at 68°F) is equal to or greater than 20 percent by weight.

"Internal floating roof" means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

"Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof, continuously around the circumference of the tank.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. A failure that is caused in part by poor maintenance or careless operation is not a malfunction.

"Maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this Subpart CC, maximum organic vapor pressure is determined using the procedures specified in Section 725.984(c).

"Metallic shoe seal" means a continuous seal that is constructed of metal sheets that are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and which is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

"No detectable organic emissions" means no escape of organics to the atmosphere, as determined using the procedure specified in Section 725.984(d).

"Point of waste origination" means as follows:

> When the facility owner or operator is the generator of the hazardous waste, the "point of waste origination" means the point where a solid waste produced by a system, process, or waste management unit is determined to be a hazardous waste, as defined in 35 Ill. Adm. Code 721.
>
> BOARD NOTE: In this case, this term is being used in a manner similar

to the use of the term “point of generation” in air standards established for waste management operations under authority of the federal Clean Air Act in 40 CFR 60 (Standards of Performance for New Stationary Sources), 61 (National Emission Standards for Hazardous Air Pollutants), and 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

When the facility owner and operator are not the generator of the hazardous waste, “point of waste origination” means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.

“Point of waste treatment” means the point where a hazardous waste to be treated in accordance with Section 725.983(c)(2) exits the treatment process. Any waste determination must be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.

“Safety device” means a closure device, such as a pressure relief valve, frangible disc, fusible plug, or any other type of device that functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of this Subpart CC, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

“Single-seal system” means a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

“Vapor-mounted seal” means a continuous seal that is mounted so that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.

“Volatile organic concentration” or “VO concentration” means the fraction by weight of organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw), as determined by direct measurement or by knowledge of the waste, in accordance with the requirements of Section 725.984. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry’s law constant value of at least 0.1 mole-

fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25° C (77° F) must be included. Appendix F of this Part presents a list of compounds known to have a Henry's law constant value less than the cutoff level.

"Waste determination" means performing all applicable procedures in accordance with the requirements of Section 725.984 to determine whether a hazardous waste meets standards specified in this Subpart CC. Examples of a waste determination include performing the procedures in accordance with the requirements of Section 725.984 to determine the average VO concentration of a hazardous waste at the point of waste origination, determining the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste, the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards, or determining the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the applicable standards.

"Waste stabilization process" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095B (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a). A waste stabilization process includes mixing the hazardous waste with binders or other materials and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the addition of absorbent materials to the surface of a waste to absorb free liquid without mixing, agitation, or subsequent curing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 726
STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTE AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

SUBPART A: GENERAL

Section
726.102 Electronic Reporting

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

SUBPART D: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY

SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

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SUBPART M: MILITARY MUNITIONS

SUBPART N: CONDITIONAL EXEMPTION FOR LOW-LEVEL MIXED WASTE STORAGE, TREATMENT, TRANSPORTATION AND DISPOSAL

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

SOURCE: Adopted in R85-22 at 10 Ill. Reg. 1162, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 Ill. Reg. 2900, effective January 15, 1988; amended in R89-1 at 13 Ill. Reg. 18606, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14533, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9727, effective June 17, 1991; amended in R91-13 at 16 Ill. Reg. 9858, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5865, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20904, effective November 22, 1993; amended in R94-7 at 18 Ill. Reg. 12500, effective July 29, 1994; amended in R95-6 at 19 Ill. Reg. 10006, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11263, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 754, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 18042, effective September 28, 1998; amended in R99-15 at 23 Ill. Reg. 9482, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9853, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6667, effective April 22, 2002; amended in

R03-7 at 27 Ill. Reg. 4200, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12916, effective July 17, 2003; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3700, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 726.102 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

Section 726.170 Applicability and Requirements

a) The regulations of this Subpart F apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals.

b) A person that generates, transports, or stores recyclable materials that are regulated under this Subpart F is subject to the following requirements:

1) Notification requirements under Section 3010 of the Resource Conservation and Recovery Act;

2) Subpart B of 35 Ill. Adm. Code 722 (for a generator), 35 Ill. Adm. Code 723.120 and 723.121 (for a transporter), and 35 Ill. Adm. Code 725.171 and 725.172 (for a person that stores); and

3) For precious metals exported to or imported from designated OECD member countries for recovery, Subpart H of 35 Ill. Adm. Code 722 and 725.112(a)(2). For precious metals exported to or imported from non-OECD countries for recovery, Subparts E and F of 35 Ill. Adm. Code 722.

c) A person that stores recycled materials that are regulated under this Subpart F must keep the following records to document that it is not accumulating these materials speculatively (as defined in 35 Ill. Adm. Code 721.101(c));

1) Records showing the volume of these materials stored at the beginning of

the calendar year;

2) The amount of these materials generated or received during the calendar year; and

3) The amount of materials remaining at the end of the calendar year.

d) Recyclable materials that are regulated under this Subpart F that are accumulated speculatively (as defined in 35 Ill. Adm. Code 721.101(c)) are subject to all applicable provisions of 35 Ill. Adm. Code 702, 703, and 722 through ~~725~~ 728.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

Section 726.200 Applicability

a) The regulations of this Subpart H apply to hazardous waste burned or processed in a boiler or industrial furnace (BIF) (as defined in 35 Ill. Adm. Code 720.110) irrespective of the purpose of burning or processing, except as provided by subsections (b), (c), (d), (g), and (h) of this Section. In this Subpart H, the term "burn" means burning for energy recovery or destruction or processing for materials recovery or as an ingredient. The emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 apply to facilities operating under interim status or under a RCRA permit, as specified in Sections 726.202 and 726.203.

b) Integration of the MACT standards.

1) Except as provided by ~~subsection~~ subsections (b)(2), (b)(3), and (b)(4) of this Section, the standards of this Part do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an ~~affected source~~ owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, ~~under~~ pursuant to 40 CFR 63.1207(j) (What are the performance testing requirements?) and ~~63.1210(b)~~ 63.1210(d) (What are the notification requirements?), documenting compliance with the requirements of federal subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will

continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2) The following standards continue to apply:

A) If an owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Section 726.202(e)(1), requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and Section 726.202(e)(2)(C), requiring compliance with the emission standards and operating requirements, during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

B) The closure requirements of Sections 726.202(e)(11) and 726.203(l);

C) The standards for direct transfer of Section 726.211;

D) The standards for regulation of residues of Section 726.312; and

E) The applicable requirements of Subparts A through H, BB, and CC of 35 Ill. Adm. Code 724 and 725.

3) The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as 40 CFR 63), that has not elected to comply with the emission standards of 40 CFR 63.1216, 63.1217, and 63.1218, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63), for particulate matter, semivolatile and low volatile metals, and total chlorine, also remains subject to the following requirements of this Part:

A) Section 726.205 (Standards to Control PM);

B) Section 726.206 (Standards to Control Metals Emissions); and

C) Section 726.207 (Standards to Control HCl and Chlorine Gas Emissions).

4) The particulate matter standard of Section 726.205 remains in effect for a boiler that elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e), incorporated by reference in 35 Ill.

Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act [415 ILCS 5/9.1 and 39.5] make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (September 30, 1999)):

> Under [the approach adopted by USEPA as a] final rule, MACT air emissions and related operating requirements are to be included in ~~Title~~ title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

c) The following hazardous wastes and facilities are not subject to regulation ~~under~~ pursuant to this Subpart H:

1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. Such used oil is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 739, rather than this Subpart H;

2) Gas recovered from hazardous or solid waste landfills, when such gas is burned for energy recovery;

3) Hazardous wastes that are exempt from regulation ~~under~~ pursuant to 35 Ill. Adm. Code 721.104 and 721.106(a)(3)(C) and (a)(3)(D) and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators ~~under~~ pursuant to 35 Ill. Adm. Code 721.105; and

4) Coke ovens, if the only hazardous waste burned is USEPA hazardous waste no. K087 decanter tank tar sludge from coking operations.

d) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices, such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation ~~under~~ pursuant to this Subpart H, except for Sections 726.201 and 726.212.

1) To be exempt from Sections 726.202 through 726.211, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator

of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dust emitted by steel manufacturing must comply with the requirements of subsection (d)(3) of this Section, and an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of federal subpart X of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting) must comply with the requirements of subsection (h) of this Section:

A) Provide a one-time written notice to the Agency indicating the following:

i) The owner or operator claims exemption ~~under~~ pursuant to this subsection (d);

ii) The hazardous waste is burned solely for metal recovery consistent with the provisions of subsection (d)(2) of this Section;

iii) The hazardous waste contains recoverable levels of metals; and

iv) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection (d);

B) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subsection (d) by using appropriate methods; and

C) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection (d), including limits on levels of toxic organic constituents and Btu value of the waste and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.

2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

A) The hazardous waste has a total concentration of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 exceeding 500 ppm by weight, as fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited, and documentation that the waste has not

been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section; or

B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and is so considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C) of this Section.

3) To be exempt from Sections 726.202 through 726.211, an owner or operator of a lead, nickel-chromium, or mercury recovery furnace, except for an owner or operator of a lead recovery furnace that is subject to regulation ~~under~~ pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the Agency identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste ~~under~~ pursuant to this subsection (d)(3) or subsection (d)(1) of this Section. The owner or operator must comply with the requirements of subsection (d)(1) of this Section for those wastes claimed to be exempt ~~under~~ pursuant to that subsection and must comply with the following requirements for those wastes claimed to be exempt ~~under~~ pursuant to this subsection (d)(3):

A) The hazardous wastes listed in Appendices K, L, and M of this Part and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subsection (d)(1) of this Section, provided the following are true:

i) A waste listed in Appendix K of this Part must contain recoverable levels of lead, a waste listed in Appendix L of this Part must contain recoverable levels of nickel or chromium, a waste listed in Appendix M of this Part must contain recoverable levels of mercury and contain less than 500 ppm of Appendix H to 35 Ill. Adm. Code 721 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

ii) The waste does not exhibit the toxicity characteristic of 35 Ill. Adm. Code 721.124 for an organic constituent;

iii) The waste is not a hazardous waste listed in Subpart D of 35

Ill. Adm. Code 721 because it is listed for an organic constituent, as identified in Appendix G of 35 Ill. Adm. Code 721; and

iv) The owner or operator certifies in the one-time notice that hazardous waste is burned ~~under~~ pursuant to the provisions of subsection (d)(3) of this Section and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis must be conducted according to subsection (d)(1)(B) of this Section, and records to document compliance with subsection (d)(3) of this Section must be kept for at least three years.

B) The Agency may decide, on a case-by-case basis, that the toxic organic constituents in a material listed in Appendix K, Appendix L, or Appendix M of this Part that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Subpart H. Under these circumstances, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Subpart H when burning that material. In making the hazard determination, the Agency must consider the following factors:

i) The concentration and toxicity of organic constituents in the material;

ii) The level of destruction of toxic organic constituents provided by the furnace; and

iii) Whether the acceptable ambient levels established in Appendix D or E of this Part will be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

e) The standards for direct transfer operations ~~under~~ pursuant to Section 726.211 apply only to facilities subject to the permit standards of Section 726.202 or the interim status standards of Section 726.203.

f) The management standards for residues ~~under~~ pursuant to Section 726.212 apply to any BIF burning hazardous waste.

g) Owners and operators of smelting, melting, and refining furnaces (including

pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals are conditionally exempt from regulation ~~under~~ pursuant to this Subpart H, except for Section 726.212. To be exempt from Sections 726.202 through 726.211, an owner or operator must do the following:

1) Provide a one-time written notice to the Agency indicating the following:

   A) The owner or operator claims exemption ~~under~~ pursuant to this Section,

   B) The hazardous waste is burned for legitimate recovery of precious metal, and

   C) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Section;

2) Sample and analyze the hazardous waste, as necessary, to document that the waste is burned for recovery of economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

3) Maintain, at the facility for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

h) An owner or operator of a lead recovery furnace that processes hazardous waste for recovery of lead and which is subject to regulation ~~under~~ pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, is conditionally exempt from regulation ~~under~~ pursuant to this Subpart H, except for Section 726.201. To become exempt, an owner or operator must provide a one-time notice to the Agency identifying each hazardous waste burned and specifying that the owner or operator claims an exemption ~~under~~ pursuant to this subsection (h). The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix H to 35 Ill. Adm. Code 721 of less than 500 ppm by weight, as fired and as provided in subsection (d)(2)(A) of this Section, or is listed in Appendix K to this Part.

i) Abbreviations and definitions. The following definitions and abbreviations are used in this Subpart H:

   "APCS" means air pollution control system.

   "BIF" means boiler or industrial furnace.

"Carcinogenic metals" means arsenic, beryllium, cadmium, and chromium.

"CO" means carbon monoxide.

"Continuous monitor" is a monitor that continuously samples the regulated parameter without interruption, that evaluates the detector response at least once each 15 seconds, and that computes and records the average value at least every 60 seconds.

"DRE" means destruction or removal efficiency.

"cu m" or "m^3" means cubic meters.

"E" means "ten to the power." For example, "XE-Y" means "X times ten to the -Y power."

"Feed rates" are measured as specified in Section 726.202(e)(6).

"Good engineering practice stack height" is as defined by federal 40 CFR 51.100(ii) (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"HC" means hydrocarbon.

"HCl" means hydrogen chloride gas.

"Hourly rolling average" means the arithmetic mean of the 60 most recent one-minute average values recorded by the continuous monitoring system.

"K" means Kelvin.

"kVA" means kilovolt amperes.

"MEI" means maximum exposed individual.

"MEI location" means the point with the maximum annual average off-site (unless on-site is required) ground level concentration.

"Noncarcinogenic metals" means antimony, barium, lead, mercury, thallium, and silver.

"One hour block average" means the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour.

"PIC" means product of incomplete combustion.

"PM" means particulate matter.

"POHC" means principal organic hazardous constituent.

"ppmv" means parts per million by volume.

"QA/QC" means quality assurance and quality control.

"Rolling average for the selected averaging period" means the arithmetic mean of one hour block averages for the averaging period.

"RAC" means reference air concentration, the acceptable ambient level for the noncarcinogenic metals for purposes of this Subpart. RACs are specified in Appendix D of this Part.

"RSD" means risk-specific dose, the acceptable ambient level for the carcinogenic metals for purposes of this Subpart. RSDs are specified in Appendix E of this Part.

"SSU" means "Saybolt Seconds Universal," a unit of viscosity measured by ASTM D 88-87 (Standard Test Method for Saybolt Viscosity) or D 2161-87 (Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

"TCLP test" means Method 1311 (Toxicity Characteristic Leaching Procedure) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as used for the purposes of 35 Ill. Adm. Code 721.124.

"TESH" means terrain-adjusted effective stack height (in meters).

"Tier I." See Section 726.206(b).

"Tier II." See Section 726.206(c).

"Tier III." See Section 726.206(d).

"Toxicity equivalence" is estimated, pursuant to Section 726.204(e), using section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), incorporated by reference in 35 Ill. Adm. Code 720.111(b)

(see Appendix I of this Part).

"mg" means microgram.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.202 Permit Standards for Burners

a) Applicability.

1) General. An owner or operator of a BIF that burns hazardous waste and which does not operate under interim status must comply with the requirements of this Section and 35 Ill. Adm. Code 703.208 and 703.232, unless exempt ~~under~~ pursuant to the small quantity burner exemption of Section 726.208.

2) Applicability of 35 Ill. Adm. Code 724 standards. An owner or operator of a BIF that burns hazardous waste is subject to the following provisions of 35 Ill. Adm. Code 724, except as provided otherwise by this Subpart H:

A) In Subpart A (General), 35 Ill. Adm. Code 724.104;

B) In Subpart B (General facility standards), 35 Ill. Adm. Code 724.111 through 724.118;

C) In Subpart C (Preparedness and prevention), 35 Ill. Adm. Code 724.131 through 724.137;

D) In Subpart D (Contingency plan and emergency procedures), 35 Ill. Adm. Code 724.151 through 724.156;

E) In Subpart E (Manifest system, recordkeeping and reporting), the applicable provisions of 35 Ill. Adm. Code 724.171 through 724.177;

F) In Subpart F (Corrective Action), 35 Ill. Adm. Code 724.190 and 724.201;

G) In Subpart G (Closure and post-closure), 35 Ill. Adm. Code 724.211 through 724.215;

H) In Subpart H (Financial requirements), 35 Ill. Adm. Code 724.241, 724.242, 724.243, and 724.247 through 724.251, except that the State of Illinois and the federal government are exempt from the requirements of Subpart H of 35 Ill. Adm. Code 724; and

I) Subpart BB (Air emission standards for equipment leaks), except 35

Ill. Adm. Code 724.950(a).

b) Hazardous waste analysis.

1) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix H of 35 Ill. Adm. Code 721 that is reasonably expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical methods. The constituents listed in Appendix H of 35 Ill. Adm. Code 721 that are excluded from this analysis must be identified and the basis for their exclusion explained. This analysis must provide all information required by this Subpart H and 35 Ill. Adm. Code 703.208 and 703.232 and must enable the Agency to prescribe such permit conditions as are necessary to adequately protect human health and the environment. Such analysis must be included as a portion of the Part B permit application, or, for facilities operating under the interim status standards of this Subpart H, as a portion of the trial burn plan that may be submitted before the Part B application ~~under~~ pursuant to provisions of 35 Ill. Adm. Code 703.232(g), as well as any other analysis required by the Agency. The owner or operator of a BIF not operating under the interim status standards must provide the information required by 35 Ill. Adm. Code 703.208 and 703.232 in the Part B application to the greatest extent possible.

2) Throughout normal operation, the owner or operator must conduct sampling and analysis as necessary to ensure that the hazardous waste, other fuels, and industrial furnace feedstocks fired into the BIF are within the physical and chemical composition limits specified in the permit.

c) Emissions standards. An owner or operator must comply with emissions standards provided by Sections 726.204 through 726.207.

d) Permits.

1) The owner or operator must burn only hazardous wastes specified in the facility permit and only under the operating conditions specified ~~under~~ pursuant to subsection (e) of this Section, except in approved trial burns under the conditions specified in 35 Ill. Adm. Code 703.232.

2) Hazardous wastes not specified in the permit must not be burned until operating conditions have been specified under a new permit or permit modification, as applicable. Operating requirements for new wastes must be based on either trial burn results or alternative data included with Part B of a permit application ~~under~~ pursuant to 35 Ill. Adm. Code 703.208.

3) BIFs operating under the interim status standards of Section 726.203 are permitted ~~under~~ pursuant to procedures provided by 35 Ill. Adm. Code

703.232(g).

4) A permit for a new BIF (those BIFs not operating under the interim status standards) must establish appropriate conditions for each of the applicable requirements of this Section, including but not limited to allowable hazardous waste firing rates and operating conditions necessary to meet the requirements of subsection (e) of this Section, in order to comply with the following standards:

A) For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the device to a point of operational readiness to conduct a trial burn, not to exceed a duration of 720 hours operating time when burning hazardous waste, the operating requirements must be those most likely to ensure compliance with the emission standards of Sections 726.204 through 726.207, based on the Agency's engineering judgment. If the applicant is seeking a waiver from a trial burn to demonstrate conformance with a particular emission standard, the operating requirements during this initial period of operation must include those specified by the applicable provisions of Section 726.204, Section 726.205, Section 726.206, or Section 726.207. The Agency must extend the duration of this period for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

B) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the emissions standards of Sections 726.204 through 726.207 and must be in accordance with the approved trial burn plan;

C) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, submission of the trial burn results by the applicant, review of the trial burn results, and modification of the facility permit by the Agency to reflect the trial burn results, the operating requirements must be those most likely to ensure compliance with the emission standards Sections 726.204 through 726.207 based on the Agency's engineering judgment.

D) For the remaining duration of the permit, the operating requirements must be those demonstrated in a trial burn or by alternative data specified in 35 Ill. Adm. Code 703.208, as sufficient to ensure compliance with the emissions standards of Sections 726.204 through 726.207.

e) Operating requirements.

1) General. A BIF burning hazardous waste must be operated in accordance with the operating requirements specified in the permit at all times when there is hazardous waste in the unit.

2) Requirements to ensure compliance with the organic emissions standards.

A) DRE (destruction or removal efficiency) standard. Operating conditions must be specified in either of the following ways: on a case-by-case basis for each hazardous waste burned, which conditions must be demonstrated (in a trial burn or by alternative data, as specified in 35 Ill. Adm. Code 703.208) to be sufficient to comply with the DRE performance standard of Section 726.204(a), or as special operating requirements provided by Section 726.204(a)(4) for the waiver of the DRE trial burn. When the DRE trial burn is not waived ~~under~~ pursuant to Section 726.204(a)(4), each set of operating requirements must specify the composition of the hazardous waste (including acceptable variations in the physical and chemical properties of the hazardous waste that will not affect compliance with the DRE performance standard) to which the operating requirements apply. For each such hazardous waste, the permit must specify acceptable operating limits including, but not limited to, the following conditions, as appropriate:

i) Feed rate of hazardous waste and other fuels measured and specified as prescribed in subsection (e)(6) of this Section;

ii) Minimum and maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Appropriate controls of the hazardous waste firing system;

iv) Allowable variation in BIF system design or operating procedures;

v) Minimum combustion gas temperature measured at a location indicative of combustion chamber temperature, measured, and specified as prescribed in subsection (e)(6) of this Section;

vi) An appropriate indicator of combustion gas velocity, measured and specified as prescribed in subsection (e)(6) of this Section, unless documentation is provided ~~under~~ pursuant to 35 Ill. Adm. Code 703.232 demonstrating

adequate combustion gas residence time; and

vii) Such other operating requirements as are necessary to ensure that the DRE performance standard of Section 726.204(a) is met.

B) CO and hydrocarbon (HC) standards. The permit must incorporate a CO limit and, as appropriate, a HC limit as provided by Section 726.204(b), (c), (d), (e), and (f). The permit limits must be specified as follows:

i) When complying with the CO standard of Section 726.204(b)(1), the permit limit is 100 ppmv;

ii) When complying with the alternative CO standard ~~under~~ pursuant to Section 726.204(c), the permit limit for CO is based on the trial burn and is established as the average over all valid runs of the highest hourly rolling average CO level of each run; and, the permit limit for HC is 20 ppmv (as defined in Section 726.204(c)(1)), except as provided in Section 726.204(f); or

iii) When complying with the alternative HC limit for industrial furnaces ~~under~~ pursuant to Section 726.204(f), the permit limit for HC and CO is the baseline level when hazardous waste is not burned as specified by that subsection.

C) Start-up and shut-down. During start-up and shut-down of the BIF, hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine, and except low risk waste exempt from the trial burn requirements ~~under~~ pursuant to Sections 726.204(a)(5), 726.205, 726.206, and 726.207) must not be fed into the device, unless the device is operating within the conditions of operation specified in the permit.

3) Requirements to ensure conformance with the particulate matter (PM) standard.

A) Except as provided in subsections (e)(3)(B) and (e)(3)(C) of this Section, the permit must specify the following operating requirements to ensure conformance with the PM standard specified in Section 726.205:

i) Total ash feed rate to the device from hazardous waste, other fuels, and industrial furnace feedstocks, measured and

specified as prescribed in subsection (e)(6) of this Section;

ii) Maximum device production rate when producing normal product expressed in appropriate units, and measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system (APCS);

iv) Allowable variation in BIF system design including any APCS or operating procedures; and

v) Such other operating requirements as are necessary to ensure that the PM standard in Section 726.211(b) is met.

B) Permit conditions to ensure conformance with the PM standard must not be provided for facilities exempt from the PM standard ~~under~~ pursuant to Section 726.205(b);

C) For cement kilns and light-weight aggregate kilns, permit conditions to ensure compliance with the PM standard must not limit the ash content of hazardous waste or other feed materials.

4) Requirements to ensure conformance with the metals emissions standard.

A) For conformance with the Tier I (or adjusted Tier I) metals feed rate screening limits of Section 726.206(b) or (e), the permit must specify the following operating requirements:

i) Total feed rate of each metal in hazardous waste, other fuels and industrial furnace feedstocks measured and specified ~~under~~ pursuant to provisions of subsection (e)(6) of this Section;

ii) Total feed rate of hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section; and

iii) A sampling and metals analysis program for the hazardous waste, other fuels and industrial furnace feedstocks;

B) For conformance with the Tier II metals emission rate screening limits ~~under~~ pursuant to Section 726.206(c) and the Tier III metals controls ~~under~~ pursuant to Section 726.206(d), the permit must specify the following operating requirements:

i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A) of this Section;

iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsections (e)(6) of this Section: total feed streams; total hazardous waste feed; and total pumpable hazardous waste feed;

iv) Total feed rate of chlorine and chloride in total feed streams measured and specified as prescribed in subsection (e)(6) of this Section;

v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subsection (e)(6) of this Section;

vi) Maximum flue gas temperature at the inlet to the PM APCS measured and specified as prescribed in subsection (e)(6) of this Section;

vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6) of this Section;

viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

ix) Allowable variation in BIF system design including any APCS or operating procedures; and

x) Such other operating requirements as are necessary to ensure that the metals standards ~~under Sections~~ pursuant to Section 726.206(c) or (d) are met.

C) For conformance with an alternative implementation approach approved by the Agency ~~under~~ pursuant to Section 726.206(f), the permit must specify the following operating requirements:

i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A) of this Section;

iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsection (e)(6) of this Section: total hazardous waste feed; and total pumpable hazardous waste feed;

iv) Total feed rate of chlorine and chloride in total feed streams measured and specified prescribed in subsection (e)(6) of this Section;

v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subsection (e)(6) of this Section;

vi) Maximum flue gas temperature at the inlet to the PM APCS measured and specified as prescribed in subsection (e)(6) of this Section;

vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6) of this Section;

viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

ix) Allowable variation in BIF system design including any APCS or operating procedures; and

x) Such other operating requirements as are necessary to ensure that the metals standards ~~under Sections~~ pursuant to Section 726.206(c) or (d) are met.

5) Requirements to ensure conformance with the HCl and chlorine gas standards.

A) For conformance with the Tier I total chlorine and chloride feed rate screening limits of Section 726.207(b)(1), the permit must specify the following operating requirements:

i) Feed rate of total chlorine and chloride in hazardous waste, other fuels and industrial furnace feedstocks measured and specified as prescribed in subsection (e)(6) of this Section;

ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section; and

iii) A sampling and analysis program for total chlorine and chloride for the hazardous waste, other fuels and industrial furnace feedstocks;

B) For conformance with the Tier II HCl and chlorine gas emission rate screening limits ~~under~~ pursuant to Section 726.207(b)(2) and the Tier III HCl and chlorine gas controls ~~under~~ pursuant to Section 726.207(c), the permit must specify the following operating requirements:

i) Maximum emission rate for HCl and for chlorine gas specified as the average emission rate during the trial burn;

ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6) of this Section;

iii) Total feed rate of chlorine and chloride in total feed streams, measured and specified as prescribed in subsection (e)(6) of this Section;

iv) Maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6) of this Section;

v) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;

vi) Allowable variation in BIF system design including any APCS or operating procedures; and

vii) Such other operating requirements as are necessary to ensure that the HCl and chlorine gas standards ~~under~~ pursuant to Section 726.207(b)(2) or (c) are met.

6) Measuring parameters and establishing limits based on trial burn data.

A) General requirements. As specified in subsections (e)(2) through (e)(5) of this Section, each operating parameter must be measured, and permit limits on the parameter must be established, according to either of the following procedures:

i) Instantaneous limits. A parameter is measured and recorded

on an instantaneous basis (i.e., the value that occurs at any time) and the permit limit specified as the time-weighted average during all valid runs of the trial burn; or

ii) Hourly rolling average. The limit for a parameter must be established and continuously monitored on an hourly rolling average basis, as defined in Section 726.200(i). The permit limit for the parameter must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average value for each run.

B) Rolling average limits for carcinogenic metals and lead. Feed rate limits for the carcinogenic metals (as defined in Section 726.200(i)) and lead must be established either on an hourly rolling average basis, as prescribed by subsection (e)(6)(A) of this Section, or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period from 2 to 24 hours, the following requirements apply:

i) The feed rate of each metal must be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;

ii) Terms are as defined in Section 726.200(i); and

iii) The permit limit for the feed rate of each metal must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average feed rate for each run.

C) Feed rate limits for metals, total chlorine and chloride, and ash. Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored ~~under~~ pursuant to the continuous monitoring requirements of subsections (e)(6)(A) and (e)(6)(B) of this Section.

D) Conduct of trial burn testing.

i) If compliance with all applicable emissions standards of Sections 726.204 through 726.207 is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as

close as possible to the original operating conditions.

ii) Prior to obtaining test data for purposes of demonstrating compliance with the emissions standards of Sections 726.204 through 726.207 or establishing limits on operating parameters ~~under~~ pursuant to this Section, the unit must operate under trial burn conditions for a sufficient period to reach steady-state operations. However, industrial furnaces that recycle collected PM back into the furnace and that comply with an alternative implementation approach for metals ~~under~~ pursuant to Section 726.206(f) need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals emissions.

iii) Trial burn data on the level of an operating parameter for which a limit must be established in the permit must be obtained during emissions sampling for the pollutants (i.e., metals, PM, HCl/chlorine gas, organic compounds) for which the parameter must be established as specified by this subsection (e).

7) General requirements.

A) Fugitive emissions. Fugitive emissions must be controlled in one of the following ways:

i) By keeping the combustion zone totally sealed against fugitive emissions; ~~or~~

ii) By maintaining the combustion zone pressure lower than atmospheric pressure; or

iii) By an alternative means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

B) Automatic waste feed cutoff. A BIF must be operated with a functioning system that automatically cuts off the hazardous waste feed when operating conditions deviate from those established ~~under~~ pursuant to this Section. In addition, the following requirements apply:

i) The permit limit for (the indicator of) minimum combustion chamber temperature must be maintained while hazardous

waste or hazardous waste residues remain in the combustion chamber~~.~~;

ii) Exhaust gases must be ducted to the APCS operated in accordance with the permit requirements while hazardous waste or hazardous waste residues remain in the combustion chamber; and

iii) Operating parameters for which permit limits are established must continue to be monitored during the cutoff, and the hazardous waste feed must not be restarted until the levels of those parameters comply with the permit limits. For parameters that are monitored on an instantaneous basis, the Agency must establish a minimum period of time after a waste feed cutoff during which the parameter must not exceed the permit limit before the hazardous waste feed is restarted.

C) Changes. A BIF must cease burning hazardous waste when combustion properties or feed rates of the hazardous waste, other fuels or industrial furnace feedstocks, or the BIF design or operating conditions deviate from the limits as specified in the permit.

8) Monitoring and Inspections.

A) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:

i) If specified by the permit, feed rates and composition of hazardous waste, other fuels, and industrial furnace feedstocks and feed rates of ash, metals, and total chlorine and chloride;

ii) If specified by the permit, CO, HCs, and oxygen on a continuous basis at a common point in the BIF downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with operating requirements specified in subsection (e)(2)(B) of this Section. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix I of this Part~~.~~; and

iii) Upon the request of the Agency, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feedstocks as appropriate), residues, and exhaust emissions must be conducted to verify that the operating requirements

established in the permit achieve the applicable standards of Sections 726.204, 726.205, 726.206, and 726.207.

B) All monitors must record data in units corresponding to the permit limit unless otherwise specified in the permit.

C) The BIF and associated equipment (pumps, values, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

D) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every seven days when hazardous waste is burned to verify operability, unless the applicant demonstrates to the Agency that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing must be conducted at least once every 30 days.

E) These monitoring and inspection data must be recorded and the records must be placed in the operating record required by 35 Ill. Adm. Code 724.173.

9) Direct transfer to the burner. If hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit, the owner and operator must comply with Section 726.211.

10) Recordkeeping. The owner or operator must keep in the operating record of the facility all information and data required by this Section until closure of the facility.

11) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the BIF.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.208 Small Quantity On-Site Burner Exemption

a) Exempt quantities. An owner or operator of a facility that burns hazardous waste in an on-site BIF is exempt from the requirements of this Subpart H provided that the following conditions are fulfilled:

1) The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in ~~the~~ Table A of this Part based on the TESH, as defined in Sections 726.200(i) and 726.206(b)(3).

2) The maximum hazardous waste firing rate does not exceed at any time one percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste;

3) The hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and

4) The hazardous waste fuel does not contain (and is not derived from) USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027.

b) Mixing with ~~nonhazardous~~ non-hazardous fuels. If hazardous waste fuel is mixed with a ~~nonhazardous~~ non-hazardous fuel, the quantity of hazardous waste before such mixing is used to comply with subsection (a) of this Section.

c) Multiple stacks. If an owner or operator burns hazardous waste in more than one on-site BIF exempt ~~under~~ pursuant to this Section, the quantity limits provided by subsection (a)(1) of this Section, are implemented according to the following equation:

$$\sum_{i=1}^{n} \frac{C_i}{L_i} \leq 1.0$$

Where:

$\Sigma (C_i/L_i)$ = the sum of the values of X for each stack i, from i = 1 to n.

n ~~means~~ = the number of stacks;

C_i = Actual Quantity Burned means the waste quantity burned per month in device "i."

L_i = Allowable Quantity Burned means the maximum allowable exempt quantity for stack "i" from Table A.

BOARD NOTE: Hazardous wastes that are subject to the special requirements for small quantity generators ~~under~~ pursuant to 35 Ill. Adm. Code 721.105 may be burned in an off-site device ~~under~~ pursuant to the exemption provided by Section 726.208, but must be included in the quantity determination for the exemption.

d) Notification requirements. The owner or operator of facilities qualifying for the small quantity burner exemption ~~under~~ pursuant to this Section must provide a one-

time signed, written notice to the Agency indicating the following:

1) The combustion unit is operating as a small quantity burner of hazardous waste;

2) The owner and operator are in compliance with the requirements of this Section; and

3) The maximum quantity of hazardous waste that the facility is allowed to burn per month, as provided by Section 726.208(a)(1).

e) Recordkeeping requirements. The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate and heating value limits of this Section. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month and the heating value of the hazardous waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.211 Standards for Direct Transfer

a) Applicability. The regulations in this Section apply to owners and operators of BIFs subject to Section 726.202 or 726.203 if hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit.

b) Definitions.

1) When used in this Section, terms have the following meanings:

"Direct transfer equipment" means any device (including but not limited to, such devices as piping, fittings, flanges, valves and pumps) that is used to distribute, meter or control the flow of hazardous waste between a container (i.e., transport vehicle) and a BIF.

"Container" means any portable device in which hazardous waste is transported, stored, treated, or otherwise handled, and includes transport vehicles that are containers themselves (e.g., tank trucks, tanker-trailers, and rail tank cars) and containers placed on or in a transport vehicle.

2) This Section references several requirements provided in Subparts I and J of 35 Ill. Adm. Code 724 and Subparts I and J of 35 Ill. Adm. Code 725. For purposes of this Section, the term "tank systems" in those referenced requirements means direct transfer equipment, as defined in subsection (b)(1) of this Section.

c) General operating requirements.

1) No direct transfer of a pumpable hazardous waste must be conducted from an open-top container to a BIF.

2) Direct transfer equipment used for pumpable hazardous waste must always be closed, except when necessary to add or remove the waste, and must not be opened, handled, or stored in a manner that could cause any rupture or leak.

3) The direct transfer of hazardous waste to a BIF must be conducted so that it does not do any of the following:

A) Generate extreme heat or pressure, fire, explosion, or violent reaction;

B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

D) Damage the structural integrity of the container or direct transfer equipment containing the waste;

E) Adversely affect the capability of the BIF to meet the standards provided by Sections 726.204 through 726.207; or

F) Threaten human health or the environment.

4) Hazardous waste must not be placed in direct transfer equipment, if it could cause the equipment or its secondary containment system to rupture, leak, corrode, or otherwise fail.

5) The owner or operator of the facility must use appropriate controls and practices to prevent spills and overflows from the direct transfer equipment or its secondary containment systems. These include the following at a minimum:

A) Spill prevention controls (e.g., check valves, dry discount couplings, etc.); and

B) Automatic waste feed cutoff to use if a leak or spill occurs from the direct transfer equipment.

d) Areas where direct transfer vehicles (containers) are located. Applying the definition

of container ~~under~~ pursuant to this Section, owners and operators must comply with the following requirements:

1) The containment requirements of 35 Ill. Adm. Code 724.275;

2) The use and management requirements of Subpart I of 35 Ill. Adm. Code 725, except for Sections 725.270 and 725.274, and except that in lieu of the special requirements of 35 Ill. Adm. Code 725.276 for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon, as required in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a). The owner or operator must obtain and keep on file at the facility a written certification by the local Fire Marshal that the installation meets the subject NFPA Codes; and

3) The closure requirements of 35 Ill. Adm. Code 724.278.

e) Direct transfer equipment. Direct transfer equipment must meet the following requirements:

1) Secondary containment. Owners and operators must comply with the secondary containment requirements of 35 Ill. Adm. Code 725.293, except for Sections 725.293(a), (d), (e), and (i), as follows:

A) For all new direct transfer equipment, prior to their being put into service; and

B) For existing direct transfer equipment, by August 21, 1993.

2) Requirements prior to meeting secondary containment requirements.

A) For existing direct transfer equipment that does not have secondary containment, the owner or operator must determine whether the equipment is leaking or is unfit for use. The owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified, registered professional engineer in accordance with 35 Ill. Adm. Code 703.126(d) that attests to the equipment's integrity by August 21, 1992.

B) This assessment must determine whether the direct transfer equipment is adequately designed and has sufficient structural strength and compatibility with the wastes to be transferred to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

i) Design standards, if available, according to which the direct transfer equipment was constructed;

ii) Hazardous characteristics of the wastes that have been or will be handled;

iii) Existing corrosion protection measures;

iv) Documented age of the equipment, if available, (otherwise, an estimate of the age); and

v) Results of a leak test or other integrity examination such that the effects of temperature variations, vapor pockets, cracks, leaks, corrosion and erosion are accounted for.

C) If, as a result of the assessment specified above, the direct transfer equipment is found to be leaking or unfit for use, the owner or operator must comply with the requirements of 35 Ill. Adm. Code 725.296(a) and (b).

3) Inspections and recordkeeping.

A) The owner or operator must inspect at least once each operating hour when hazardous waste is being transferred from the transport vehicle (container) to the BIF:

i) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

ii) The above ground portions of the direct transfer equipment to detect corrosion, erosion, or releases of waste (e.g., wet spots, dead vegetation, etc.); and

iii) Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges) to ensure that the direct transfer equipment is being operated according to its design.

B) The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided by 35 Ill. Adm. Code 725.295(b).

C) Records of inspections made ~~under~~ pursuant to this subsection (e)(3) must be maintained in the operating record at the facility, and

available for inspection for at least three years from the date of the inspection.

4) Design and installation of new ancillary equipment. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.292.

5) Response to leaks or spills. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.296.

6) Closure. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.297, except for 35 Ill. Adm. Code 725.297(c)(2) through (c)(4).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART M: MILITARY MUNITIONS

Section 726.300 Applicability

a) The regulations in this Subpart M identify when military munitions become a solid waste, and, if these wastes are also hazardous under this Subpart M or 35 Ill. Adm. Code 721, the management standards that apply to these wastes.

b) Unless otherwise specified in this Subpart M, all applicable requirements in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738 apply to waste military munitions.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.303 Standards Applicable to the Transportation of Solid Waste Military Munitions

a) Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation.

1) Waste military munitions that are being transported and which exhibit a hazardous waste characteristic or which are listed as hazardous waste ~~under~~ pursuant to 35 Ill. Adm. Code 721 are subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738, unless the munitions meet all the following conditions:

A) The waste military munitions are not chemical agents or chemical munitions;

B) The waste military munitions are transported in accordance with the Department of Defense shipping controls applicable to the

transport of military munitions;

C) The waste military munitions are transported from a military-owned or -operated installation to a military-owned or -operated treatment, storage, or disposal facility; and

D) The transporter of the waste must provide oral notice to the Agency within 24 hours from the time when either the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) of this Section occurs that may endanger human health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time when the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) of this Section occurs.

2) If any waste military munitions shipped ~~under~~ pursuant to subsection (a)(1) of this Section are not received by the receiving facility within 45 days after the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Agency within five days.

3) The conditional exemption from regulation as hazardous waste in subsection (a)(1) of this Section must apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.

4) The conditional exemption in subsection (a)(1) of this Section applies only so long as all of the conditions in subsection (a)(1) of this Section are met.

b) Reinstatement of conditional exemption.

1) If any waste military munition loses its conditional exemption ~~under~~ pursuant to subsection (a)(1) of this Section, the transporter may file with the Agency an application for reinstatement of the conditional exemption from hazardous waste transportation regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1) of this Section.

2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) of this Section in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either

the transporter's provision of a satisfactory explanation of the circumstances of the violation or any demonstration that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. In reinstating the conditional exemption ~~under~~ pursuant to subsection (a)(1) of this Section, the Agency may specify additional conditions as are necessary to ensure and document proper transportation to adequately protect human health and the environment. If the Agency does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement must be deemed granted, retroactive to the date of the application.

3) The Agency may terminate a conditional exemption reinstated by default ~~under the preceding sentence~~ pursuant to subsection (b)(2) of this Section in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (b)(2) of this Section. If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.

4) The applicant ~~under~~ pursuant to this subsection (b) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

c) Amendments to DOD shipping controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in subsection (a)(1)(B) of this Section are Government Bill of Lading (GBL) (GSA Standard Form 1109), Requisition Tracking Form (DD Form 1348), the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

BOARD NOTE: Corresponding federal provision 40 CFR 266.203(c) (2005), further provides as follows: "Any amendments to the Department of Defense shipping controls must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in paragraph (a)(1)(ii) of this section have been amended." (40 CFR 266.203(a)(1)(ii) corresponds with 35 Ill. Adm. Code 726.303(a)(1)(B).) Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested members of the regulated community will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.305 Standards Applicable to the Storage of Solid Waste Military Munitions

a) Criteria for hazardous waste regulation of waste non-chemical military munitions in storage.

1) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste ~~under~~ pursuant to 35 Ill. Adm. Code 721 are listed or identified as a hazardous waste (and thus are subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726,~~ 728, 733, 738, and 739), unless all the following conditions are met:

A) The waste military munitions are not chemical agents or chemical munitions;

B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);

C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;

D) Within 90 days of when a storage unit is first used to store waste military munitions, the owner or operator must notify the Agency of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in subsection (a)(1) of this Section is claimed;

E) The owner or operator must provide oral notice to the Agency within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of subsection (a)(1) of this Section that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subsection (a)(1) of this Section;

F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of subsection (a)(1) of this Section, and must maintain records of the findings of these inventories and inspections for at least three years; and

G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

2) The conditional exemption in subsection (a)(1) of this Section from regulation as hazardous waste must apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

3) The conditional exemption in subsection (a)(1) of this Section applies only so long as all of the conditions in subsection (a)(1) of this Section are met.

b) Notice of termination of waste storage. The owner or operator must notify the Agency when a storage unit identified in subsection (a)(1)(D) of this Section will no longer be used to store waste military munitions.

c) Reinstatement of conditional exemption.

1) If any waste military munition loses its conditional exemption ~~under~~ pursuant to subsection (a)(1) of this Section, an application may be filed with the Agency for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1) of this Section.

2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) of this Section in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or any demonstration that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. In reinstating the conditional exemption ~~under~~ pursuant to subsection (a)(1) of this Section, the Agency may specify additional conditions as are necessary to ensure and document proper storage to adequately protect human health and the environment.

3) The Agency may terminate a conditional exemption reinstated by default ~~under the preceding sentence~~ pursuant to subsection (c)(2) of this Section in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (c)(2) of this Section. If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.

4) The applicant ~~under~~ pursuant to this subsection (c) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

d) Waste chemical munitions.

1) Waste military munitions that are chemical agents or chemical munitions and which exhibit a hazardous waste characteristic or which are listed as hazardous waste ~~under~~ pursuant to 35 Ill. Adm. Code 721~~,~~ are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C.

2) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste ~~under~~ pursuant to 35 Ill. Adm. Code 721, are not subject to the storage prohibition in RCRA section 3004(j), codified at 35 Ill. Adm. Code 728.150.

e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (a)(1)(C) of this Section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Corresponding federal provision 40 CFR 266.205(e), as added at 62 Fed. Reg. 6656 (Feb. 12, 1997), further provides as follows: "Any amendments to the DDESB storage standards must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in paragraph (a)(1) of this section have been amended." Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested members of the regulated community will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.306 Standards Applicable to the Treatment and Disposal of Waste Military Munitions

The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through ~~726, and~~ 728, and 738.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART N: CONDITIONAL EXEMPTION FOR LOW-LEVEL MIXED WASTE STORAGE, TREATMENT, TRANSPORTATION AND DISPOSAL

Section 726.345 Reclaiming a Lost Storage and Treatment Conditional Exemption

a) A generator may reclaim a lost storage and treatment conditional exemption for its LLMW if the following conditions are fulfilled:

1) The generator again meets the conditions specified in Section 726.330; and

2) The generator sends the Agency a notice by certified delivery that the generator is reclaiming the exemption for its LLMW. The generator's notice must be signed by its authorized representative certifying that the information contained in the generator's notice is true, complete, and accurate. In its notice, the generator must do the following:

A) Explain the circumstances of each failure.

B) Certify that the generator has corrected each failure that caused it to lose the exemption for its LLMW and that the generator again meets all the conditions as of the date that the generator specifies.

C) Describe plans that the generator has implemented, listing specific steps that it has taken, to ensure that the conditions will be met in the future.

D) Include any other information that the generator wants the Agency to consider when it reviews the generator's notice reclaiming the exemption.

b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, pursuant to Section 39 of the Act [415 ILCS 5/39], that the generator's claim is inappropriate based on factors including, but not limited to, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.330. In reviewing a reclaimed conditional exemption ~~under~~ pursuant to this Section, the Agency may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will adequately protect human health and the environment. Any Agency determination made pursuant to this subsection (b) is subject to review by the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.355 Waste No Longer Eligible for a Storage and Treatment Conditional Exemption

a) When a generator's LLMW has met the requirements of its federal NRC or IEMA license for decay-in-storage and can be disposed of as non-radioactive waste, then the conditional exemption for storage no longer applies. On that date the generator's waste is subject to hazardous waste regulation under the relevant ~~Sections~~ provisions of 35 Ill. Adm. Code 702, 703, 720 through ~~726, and~~ 728, and 738, and the time period for accumulation of a hazardous waste, as specified in 35 Ill. Adm. Code 722.134 begins.

b) When a generator's conditionally exempt LLMW, which has been generated and stored under a single federal NRC or IEMA license number, is removed from storage, it is no longer eligible for the storage and treatment exemption. However, a generator's waste may be eligible for the transportation and disposal conditional exemption at Section 726.405.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 726.460 Reclaiming a Lost Transportation and Disposal Conditional Exemption

a) A generator may reclaim a lost transportation and disposal conditional exemption for a waste after the generator has received a return receipt confirming that the Agency and the IEMA have received the generator's notification of the loss of the exemption specified in Section 726.455(a) and if the following conditions are fulfilled:

1) The generator again meets the conditions specified in Section 726.415 for the waste; and

2) The generator sends a notice, by certified delivery, to the Agency that the generator is reclaiming the exemption for the waste. A generator's notice must be signed by the generator's authorized representative certifying that the information provided is true, accurate, and complete. The notice must include all of the following:

A) An explanation of the circumstances of each failure;

B) A certification that each failure that caused the generator to lose the exemption for the waste has been corrected and that the generator again meets all conditions for the waste as of the date the generator specifies;

C) A description of plans that the generator has implemented, listing the specific steps that the generator has taken, to ensure that conditions will be met in the future; and

D) Any other information that the generator wants the Agency to consider when the Agency reviews the generator's notice reclaiming the exemption.

b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, pursuant to Section 39 of the Act [415 ILCS 5/39], that the generator's claim is inappropriate based on factors including, but not limited to, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator has failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.415. In reviewing a reclaimed conditional exemption ~~under~~ pursuant to this Section, the Agency may add conditions to the exemption to ensure that transportation and disposal activities will adequately protect human health and the environment. Any Agency determination made pursuant to this subsection (b) is subject to review by the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 727
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A RCRA STANDARDIZED PERMIT

Section
727.100 General
727.110 General Facility Standards
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727.Appendix A Financial Assurance Forms

Illustration A Letter of Chief Financial Officer: Financial Assurance for Facility Closure
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Appendix B Correlation of State and Federal Provisions
Table A Correlation of Federal RCRA Standardized Permit Provisions to State Provisions
Table B Correlation of State RCRA Standardized Permit Provisions to Federal Provisions

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

SOURCE: Adopted R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

Section 727.100 General

a) Purpose, scope, and applicability.

1) The purpose of this Part is to establish minimum national standards that define the acceptable management of hazardous waste under a RCRA standardized permit, as such is defined in 35 Ill. Adm. Code 702.110 and 720.110, issued pursuant to Subpart J of 35 Ill. Adm. Code 703.

2) This Part applies to owners and operators of facilities that treat or store hazardous waste under a RCRA standardized permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided otherwise in Subpart A of 35 Ill. Adm. Code 721 or 35 Ill. Adm. Code 724.101(f) and (g).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.1, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The exemptions of subsection (a)(2) of this Section are directly derived from corresponding 40 CFR 267.1(b). The Board assumes that USEPA exempted from the RCRA standardized permit requirements those wastes excluded from the definition of hazardous waste (in Subpart A of 35 Ill. Adm. Code 721) and those exempted from the T/S/D facility standards (by 35 Ill. Adm. Code 724.101(g)). The Board has retained the reference to 35 Ill. Adm. Code 724.101(f), even though it does no more than reference corresponding 40 CFR 264.1(f), which relates exclusively to the applicability of the federal regulations.

b) Relationship to interim status standards. A facility owner or operator that has fully complied with the requirements for interim status, as defined in section 3005(e) of federal RCRA and regulations pursuant to 35 Ill. Adm. Code 703.153, must comply with the regulations specified in 35 Ill. Adm. Code 725 instead of

the regulations in this Part, until final administrative disposition of the RCRA standardized permit application is made, except as provided in Subpart S of 35 Ill. Adm. Code 724.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.2, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Effect on a federal imminent hazard action. Notwithstanding any other provisions of this Part, enforcement actions may be brought in a federal court pursuant to section 7003 of RCRA.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.3, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The corresponding federal regulation relates to an imminent hazard action under RCRA. An enforcement action for violation of any applicable provision of the Environmental Protection Act [415 ILCS 5] (Act) is also possible.

d) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

Section 727.110 General Facility Standards

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste under a Subpart J of 35 Ill. Adm. Code 703 RCRA standardized permit, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.10, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Compliance with this Section. To comply with this Section, the facility owner or operator must obtain a USEPA identification number, and follow the requirements of this Part for waste analysis, security, inspections, training, special waste handling, and location standards.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.11, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Obtaining a USEPA identification number. The facility owner or operator must apply to USEPA for a USEPA identification number following the USEPA notification procedures and using USEPA form 8700–12. The owner or operator may obtain information and required forms from the Agency or from USEPA

Region 5.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.12, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Waste analysis requirements.

1) Before it treats or stores any hazardous wastes, the facility owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information needed to treat or store the waste to comply with this Part and 35 Ill. Adm. Code 728.

A) The facility owner or operator may include data in the analysis that was developed pursuant to 35 Ill. Adm. Code 721 or data published or documented on the hazardous waste or on hazardous waste generated from similar processes.

B) The facility owner or operator must repeat the analysis as necessary to ensure that it is accurate and up to date. At a minimum, the owner or operator must repeat the analysis if the process or operation generating the hazardous wastes has changed.

2) The facility owner or operator must develop and follow a written waste analysis plan that describes the procedures it will follow to comply with subsection (d)(1) of this Section. The owner or operator must keep this plan at the facility. If the owner or operator receives wastes generated from off-site and is eligible for a RCRA standardized permit, the owner or operator also must have submitted the waste analysis plan with the Notice of Intent. At a minimum, the plan must specify all of the following:

A) The hazardous waste parameters that the owner or operator will analyze and the rationale for selecting these parameters (that is, how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (d)(1) of this Section).

B) The test methods the owner or operator will use to test for these parameters.

C) The sampling method the owner or operator will use to obtain a representative sample of the waste to be analyzed. The owner or operator may obtain a representative sample using either of the following methods:

i) One of the sampling methods described in Appendix A of

35 Ill. Adm. Code 721; or

ii) An equivalent sampling method.

D) How frequently the owner or operator will review or repeat the initial analysis of the waste to ensure that the analysis is accurate and up to date.

E) Where applicable, the methods the owner or operator will use to meet the additional waste analysis requirements for specific waste management methods, as specified in 35 Ill. Adm. Code 724.117, 724.934(d), 724.963(d), and 724.983.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.13, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Security requirements.

1) The facility owner or operator must prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of its facility.

2) The facility must have either of the features listed in subsection (e)(2)(A) of this Section or those listed in subsections (e)(2)(B) and (e)(2)(C) of this Section:

A) A 24-hour surveillance system (for example, television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; or

B) An artificial or natural barrier (for example, a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility; and

C) A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

3) The facility owner or operator must post a sign at each entrance to the active portion of a facility, and at other prominent locations, in sufficient numbers to be seen from any approach to this active portion. The sign must bear the legend "Danger—Unauthorized Personnel Keep Out." The legend must be in English and in any other language predominant in the area surrounding the facility (for example, French or Spanish), and must

be legible from a distance of at least 25 feet. The owner or operator may use existing signs with a legend other than "Danger—Unauthorized Personnel Keep Out" if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and entry onto the active portion can be dangerous.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.14, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) General inspection requirements.

1) The owner or operator must inspect its facility for malfunctions and deterioration, operator errors, and discharges that may be causing, or may lead to either of the conditions listed in subsection (f)(1)(A) or (f)(1)(B) of this Section. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they result in harm to human health and the environment.

A) A release of hazardous waste constituents to the environment; or

B) A threat to human health.

2) The facility owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

A) The owner or operator must keep this schedule at the facility.

B) The schedule must identify the equipment and devices that the owner or operator will inspect and what problems it will look for, such as malfunctions or deterioration of equipment (for example, inoperative sump pump, leaking fitting, etc.).

C) The frequency of the owner's or operator's inspections may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies required in Sections 727.270(e), 727.290(d) and (f), and 727.900(d) and 35 Ill. Adm. Code 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.989, where applicable.

3) The facility owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals in time to prevent any environmental or human health hazards. Where hazard is imminent or has already occurred, the owner or operator must take immediate remedial action.

4) The facility owner or operator must record all inspections. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, the owner or operator must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.15, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Employee training.

1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Part. The facility owner or operator must ensure that this program includes all the elements described in the documents that are required pursuant to subsection (g)(4)(C) of this Section.

A) A person trained in hazardous waste management procedures must direct this program, and must teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions.

B) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable:

i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.

ii) Key parameters for automatic waste feed cut-off systems.

iii) Communications or alarm systems.

iv) Response to fires or explosions.

v) Response to groundwater contamination incidents.

vi) Shutdown of operations.

2) Facility personnel must successfully complete the program required in subsection (g)(1) of this Section within six months after the date of their employment or assignment to a facility or to a new position at a facility, whichever is later. Employees hired after the effective date of the owner's or operator's RCRA standardized permit must not work in unsupervised positions until they have completed the training requirements of subsection (g)(1) of this Section.

3) Facility personnel must take part in an annual review of the initial training required in subsection (g)(1) of this Section.

4) The facility owner or operator must maintain the following documents and records at its facility:

A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

B) A written job description for each position listed pursuant to subsection (g)(4)(A) of this Section. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;

C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed pursuant to subsection (g)(4)(A) of this Section;

D) Records that document that facility personnel have received and completed the training or job experience required pursuant to subsections (g)(1), (g)(2), and (g)(3) of this Section.

5) The facility owner or operator must keep training records on current personnel until its facility closes. The owner or operator must keep training records on former employees for at least three years from the date the employee last worked at its facility. Personnel training records may accompany personnel transferred within a company.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.16, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) Requirements for managing ignitable, reactive, or incompatible wastes.

1) The facility owner or operator must take precautions to prevent accidental

ignition or reaction of ignitable or reactive waste by following these requirements:

A) The owner or operator must separate these wastes and protect them from sources of ignition or reaction such as open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (for example, from heat-producing chemical reactions), and radiant heat.

B) While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flames to specially designated locations.

C) "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

2) If it treats or stores ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, the owner or operator must take precautions to prevent reactions that do the following:

A) Generate extreme heat or pressure, fire or explosions, or violent reactions.

B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.

C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.

D) Damage the structural integrity of the device or facility.

E) Threaten human health and the environment in any similar way.

3) The facility owner or operator must document compliance with subsection (h)(1) or (h)(2) of this Section. The owner or operator may base this documentation on references to published scientific or engineering literature, data from trial tests (for example bench scale or pilot scale tests), waste analyses (as specified in Section 727.110(d)), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.17, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

i) Facility location standards.

1) The facility owner or operator may not locate any portion of a new facility where hazardous waste will be treated or stored within 61 meters (200 feet) of a fault that has had displacement in Holocene time.

A) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side.

B) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

C) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

BOARD NOTE: Under the note to corresponding 40 CFR 267.18(a)(3) and 40 CFR 270.14(b)(11), a facility that is located in a political jurisdiction other than those listed in appendix VI of 40 CFR 264 is assumed to be in compliance with this requirement. No area of Illinois is listed in appendix VI of 40 CFR 264.

2) If an owner's or operator's facility is located within a 100-year flood plain, it must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

A) "100-year flood plain" means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

B) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.

C) "100-year flood" means a flood that has a one percent chance of being equaled or exceeded in any given year.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.18, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.130 Preparedness and Prevention

a) Applicability of this Section. This Section applies to the owner and operator of a facility that treats or stores hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.30,

as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) General facility design and operation standards. The facility owner or operator must design, construct, maintain, and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

c) Required facility equipment. A facility must be equipped with all of the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

4) Water at adequate volume and pressure to supply water hose streams, or foam-producing equipment, or automatic sprinklers, or water spray systems.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.32, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Equipment testing and maintenance requirements. The facility owner or operator must test and maintain all required facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, as necessary, to assure its proper operation in time of emergency.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.33, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Facility personnel access to communication equipment or an alarm system.

1) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the device is not required pursuant to Section 727.130(c).

2) If just one employee is on the premises while the facility is operating, that person must have immediate access to a communication device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the device is not required pursuant to Section 727.130(c).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.34, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) Ensuring access for personnel and equipment during emergencies. The facility owner or operator must maintain enough aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, as appropriate, considering the type of waste being stored or treated.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.35, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Required emergency arrangements with local authorities.

1) The facility owner or operator must attempt to make the following arrangements, as appropriate, for the type of waste handled at its facility and the potential need for the services of these organizations:

A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

B) Agreements designating primary emergency authority to a specific police and a specific fire department where more than one police and fire department might respond to an emergency, and agreements with any others to provide support to the primary emergency authority;

C) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

D) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

2) If State or local authorities decline to enter into such arrangements, the facility owner or operator must document the refusal in the operating record.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.36, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.150 Contingency Plan and Emergency Procedures

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.50, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) The purpose and use of the contingency plan.

1) The facility owner or operator must have a contingency plan for its facility. The owner or operator must design the plan to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

2) The owner or operator must implement the provisions of the plan immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.51, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Contents of the contingency plan.

1) The facility contingency plan must include the following information:

A) It must describe the actions facility personnel will take to comply with subsections (b) and (g) of this Section in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility;

B) It must describe all arrangements agreed upon pursuant to Section 727.130(g) by local police departments, fire departments, hospitals, contractors, and State and local emergency response

teams to coordinate emergency services;

C) It must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (f) of this Section), and the owner or operator must keep the list up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates;

D) It must include a current list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. In addition, the facility owner or operator must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

E) It must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. The plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

2) If the facility owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan pursuant to federal 40 CFR 112, or some other emergency or contingency plan, the owner or operator needs only to amend that plan to incorporate hazardous waste management provisions that will comply with the requirements of this Part.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.52, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Who must have copies of the contingency plan.

1) The facility owner or operator must maintain a copy of the plan with all revisions at the facility; and

2) The owner or operator must submit a copy with all revisions to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.53, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) When the facility owner or operator must amend the contingency plan. The facility owner or operator must review, and immediately amend the contingency plan, if necessary, whenever any of the following occurs:

1) The facility permit is revised;

2) The plan fails in an emergency;

3) The owner or operator changes the facility (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

4) The owner or operator changes the list of emergency coordinators; or

5) The owner or operator changes the list of emergency equipment.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.54, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) The role of the emergency coordinator. At least one employee must be either on the facility premises or on call at all times (that is, available to respond to an emergency by reaching the facility within a short period of time) who has the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.55, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Required emergency procedures for the emergency coordinator.

1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately undertake the following actions:

A) He or she must activate internal facility alarm or communication systems, where applicable, to notify all facility personnel; and

B) He or she must notify appropriate State or local agencies with designated response roles if their help is needed.

2) Whenever there is a release, fire, or explosion, the emergency coordinator must undertake the following actions:

A) He or she must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests, and, if necessary, by chemical analysis; and

B) He or she must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion. For example, the assessment would consider the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions.

3) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health or the environment outside the facility, he or she must report his findings as follows:

A) If his or her assessment indicates that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and

B) He or she must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll-free number 800-424–8802). The report must include the following information:

i) The name and telephone number of the reporter;

ii) The name and address of facility;

iii) The time and type of incident (for example, a release or a fire);

iv) The name and quantity of materials involved, to the extent known;

v) The extent of injuries, if any; and

vi) The possible hazards to human health, or the environment

outside the facility.

4) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing release waste, and removing or isolating containers.

5) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, when appropriate.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.56, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) The emergency coordinator's responsibilities after an emergency.

1) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

2) The emergency coordinator must ensure that the following occur in the affected areas of the facility:

A) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.57, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

i) Emergency notification and recordkeeping requirements.

1) The facility owner or operator must notify the Agency and other appropriate State and local authorities that the facility is in compliance with Section 727.150(h)(2) before operations are resumed in the affected areas of the facility.

2) The facility owner or operator must note the time, date, and details of any incident that requires implementing the contingency plan in the operating

record. Within 15 days after the incident, the owner or operator must submit a written report on the incident to the Agency. The owner or operator must include the following information in the report:

A) The name, address, and telephone number of the owner or operator;

B) The name, address, and telephone number of the facility;

C) The date, time, and type of incident (e.g., fire, explosion);

D) The name and quantity of materials involved;

E) The extent of injuries, if any;

F) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

G) The estimated quantity and disposition of recovered material that resulted from the incident.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.58, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.170 Recordkeeping, Reporting, and Notifying

a) Applicability of this Section. This Section applies to the owner and operator of a facility that stores or non-thermally treats a hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2). In addition, the owner or operator must comply with the manifest requirements of 35 Ill. Adm. Code 722 whenever a shipment of hazardous waste is initiated from the facility.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.70, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Use of the manifest system.

1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

B) It must note any significant discrepancies in the manifest (as defined in Section 727.170(c)(1)) on each copy of the manifest;

C) It must immediately give the transporter at least one copy of the signed manifest;

D) Within 30 days after the delivery, it must send a copy of the manifest to the generator; and

E) It must retain at the facility a copy of each manifest for at least three years from the date of delivery.

2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or its agent, must do each of the following:

A) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

B) It must note any significant discrepancies (as defined in Section 727.170(c)(1)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: USEPA does not intend that the owner or operator of a facility whose procedures pursuant to Section 727.110(d)(3) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 727.170(c)(2), however, requires reporting an unreconciled discrepancy discovered during later analysis.

C) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

D) Within 30 days after the delivery, it must send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or its agent, must send a copy of the shipping paper signed and dated to the generator; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

E) It must retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

3) Whenever a shipment of hazardous waste is initiated from a facility, the facility owner or operator must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 724.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 724.134 apply only to an owner or operator that is shipping hazardous waste that it generated at that facility.

4) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722 the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Agency, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.71, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Manifest discrepancies.

1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are either of the following:

A) For bulk waste, variations greater than 10 percent in weight; or

B) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

2) Upon discovering a significant discrepancy, the facility owner or operator must attempt to reconcile the discrepancy with the waste generator or

transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.72, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Retention of information.

1) The facility owner or operator must keep a written operating record at its facility.

2) The facility owner or operator must record the following information, as it becomes available, and maintain the operating record until it closes the facility:

A) A description and the quantity of each type of hazardous waste generated, and the methods and dates of its storage or treatment at the facility as required by Appendix A of 35 Ill. Adm. Code 724;

B) The location of each hazardous waste within the facility and the quantity at each location;

C) Records and results of waste analyses and waste determinations performed as specified in Section 727.110(d) and (h) and 35 Ill. Adm. Code 724.934, 724.963, 724.983, and 728.107;

D) Summary reports and details of all incidents that require the owner or operator to implement the contingency plan as specified in Section 727.150(i)(2));

E) Records and results of inspections as required by Section 727.110(f)(4) (except that the facility owner or operator needs to keep these data for only three years);

F) Monitoring, testing or analytical data, and corrective action when required by Section 727.190, Section 727. 290(b), (d), and (f) and 35 Ill. Adm. Code 724.934(c) through (f), 724.935, 724.963(d) through (i), 724.964, 724.988, 724.989, and 724.990;

G) All closure cost estimates pursuant to Section 727.240(c);

H) The facility owner or operator certification, executed at least annually, that the owner or operator has a program in place to

reduce the volume and toxicity of hazardous waste that it generates to the degree that the owner or operator determines to be economically practicable; and that the proposed method of treatment or storage is that practicable method currently available to the owner or operator that minimizes the present and future threat to human health and the environment;

I) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

J) For an on-site storage facility, the information in the notice (except the manifest number), and the certification and demonstration, if applicable, required by the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107;

K) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the facility owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108; and

L) For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator pursuant to 35 Ill. Adm. Code 728.107 or 728.108.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.73, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Availability of records.

1) The facility owner or operator must furnish all records, including plans, required pursuant to this Part upon the request of any officer, employee, or representative of the Agency or USEPA and make them available at all reasonable times for inspection.

2) The retention period for all records required pursuant to this Part is extended automatically during the course of any unresolved enforcement action involving the facility or as requested by the Agency.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.74, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) Submission of reports. The facility owner or operator must prepare a biennial report and other reports listed in subsection (f)(2) of this Section.

1) Biennial report. The facility owner or operator must prepare and submit a single copy of a biennial report to the Agency by March 1 of each even numbered year. The biennial report must be submitted on USEPA Form 8700-13B. The report must cover facility activities during the previous two calendar years and must include the following information:

A) The USEPA identification number, name, and address of the facility;

B) The calendar year covered by the report;

C) The method of treatment or storage for each hazardous waste;

D) The most recent closure cost estimate pursuant to Section 727.240(c);

E) A description of the efforts undertaken during the year to reduce the volume and toxicity of generated waste;

F) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

G) The certification signed by the owner or operator.

2) Additional reports. In addition to submitting the biennial reports, the owner or operator must also report the following information to the Agency:

A) Releases, fires, and explosions as specified in Section 727.150(i)(2);

B) Facility closures specified in Section 727.210(h); and

C) Other information as otherwise required by Sections 727.270, 727.290, and 727.900 and Subparts AA, BB, and CC of 35 Ill. Adm. Code 264.

3) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator.

4) A description and the quantity of each hazardous waste the facility

received during the year. For off-site facilities, this information must be listed by USEPA identification number of each generator.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.75, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Required notifications. Before transferring ownership or operation of a facility during its operating life, the facility owner or operator must notify the new owner or operator in writing of the requirements of this Part and Subpart J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.76, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.190 Releases from Solid Waste Management Units

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2), or unless its facility already has a permit that imposes requirements for corrective action pursuant to 35 Ill. Adm. Code 724.201.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.90, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) This subsection (b) corresponds with 40 CFR 267.91, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

c) This subsection (c) corresponds with 40 CFR 267.92, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

d) This subsection (d) corresponds with 40 CFR 267.93, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

e) This subsection (e) corresponds with 40 CFR 267.94, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

f) This subsection (f) corresponds with 40 CFR 267.95, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

g) This subsection (g) corresponds with 40 CFR 267.96, which USEPA has marked

"Reserved." This statement maintains structural consistency with the corresponding federal rules.

h) This subsection (h) corresponds with 40 CFR 267.97, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

i) This subsection (i) corresponds with 40 CFR 267.98, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

j) This subsection (j) corresponds with 40 CFR 267.99, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

k) This subsection (k) corresponds with 40 CFR 267.100, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

l) Requirements for addressing corrective action for solid waste management units.

1) The facility owner or operator must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.

2) The Agency must specify corrective action in the supplemental portion of the facility owner's or operator's RCRA standardized permit in accordance with this subsection (l) and Subpart S of 35 Ill. Adm. Code 724. The Agency must include in the supplemental portion of the RCRA standardized permit schedules of compliance for corrective action (where corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing corrective action.

3) The facility owner or operator must implement corrective action beyond the facility property boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the Agency that, despite its best efforts, the owner or operator was unable to obtain the necessary permission to undertake such actions. The owner or operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. The owner or operator must provide assurances of financial responsibility for such corrective action.

4) The facility owner or operator of a remediation site does not have to

comply with this subsection (l) unless the site is part of a facility that is subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.101, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.210 Closure

a) Applicability of this Section. This Section applies to the facility owner or operator of a facility that treats or stores hazardous waste under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.110, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Required general standards when operations cease. The facility owner or operator must close the storage and treatment units in a manner that fulfills the following conditions:

1) It minimizes the need for further maintenance;

2) It controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere; and

3) It meets the closure requirements of this Section and the requirements of Sections 727.270(g), 727.290(l), and 727.900(i). If the facility owner or operator determines that, when applicable, the closure requirements of Section 727.290(l) (tanks) or 727.900(i) (containment buildings) cannot be met, then the owner or operator must close the unit in accordance with the requirements that apply to landfills (35 Ill. Adm. Code 724.410). In addition, for the purposes of post-closure and financial responsibility, such a tank system or containment building is then considered to be a landfill, and the owner or operator must apply for a post-closure care permit in accordance with 35 Ill. Adm. Code 702 and 703.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.111, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Closure procedures.

1) To close a facility, the facility owner or operator must follow its approved

closure plan, and follow notification requirements.

A) The facility owner or operator must submit its closure plan at the time it submits its Notice of Intent to operate under a RCRA standardized permit. Final issuance of the RCRA standardized permit constitutes approval of the closure plan, and the plan becomes a condition of the RCRA standardized permit.

B) The Agency's approval of the plan must ensure that the approved plan is consistent with Sections 727.210(b) through (f), 727.270(g), 727.290(l), and 727.900(i).

2) Content of closure plan. The closure plan must identify steps necessary to perform partial or final closure of the facility. The closure plan must include at least the following minimum information:

A) A description of how each hazardous waste management unit at the facility subject to this Section will be closed following the requirements of Section 727.210(b);

B) A description of how final closure of the facility will be conducted in accordance with Section 727.210(b). The description must identify the maximum extent of the operations that will be unclosed during the active life of the facility;

C) An estimate of the maximum inventory of hazardous wastes ever on site during the active life of the facility and a detailed description of the methods that the facility owner or operator will use during partial or final closure, such as methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the types of off-site hazardous waste management units to be used, if applicable;

D) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial or final closure. These might include procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

E) A detailed description of other activities necessary during the closure period to ensure that partial or final closure satisfies the closure performance standards;

F) A schedule for closure of each hazardous waste management unit, and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that allow tracking of progress of partial or final closure; and

G) For facilities that use trust funds to establish financial assurance pursuant to Section 727.240(d) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

3) The facility owner or operator may submit a written notification to the Agency for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility, following the applicable procedures in 35 Ill. Adm. Code 705.304.

A) Events leading to a change in the closure plan, and therefore requiring a modification, may include the following:

i) A change in the operating plan or facility design;

ii) A change in the expected year of closure, if applicable; or

iii) In conducting partial or final closure activities, an unexpected event requiring a modification of the approved closure plan.

B) The written notification or request must include a copy of the amended closure plan for review or approval by the Agency. The Agency must approve, disapprove, or modify this amended plan in accordance with the procedures in 35 Ill. Adm. Code 703.353 and 705.304.

4) Notification before final closure.

A) The facility owner or operator must notify the Agency in writing at least 45 days before the date that it expects to begin final closure of a treatment or storage tank, container storage area, or containment building.

B) The date when the owner or operator "expects to begin closure" must be no later than 30 days after the date that any hazardous waste management unit receives the known final volume of hazardous wastes.

C) If the facility's permit is terminated, or if the facility owner or operator is otherwise ordered, by a federal judicial decree or final order pursuant to section 3008 of RCRA (42 USC 6928), to cease receiving hazardous wastes or to close, then the requirements of this subsection (c)(4) do not apply. However, the owner or operator must close the facility following the deadlines established in subsection (f) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.112, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Opportunity for public comment on the plan.

1) The Agency must provide the facility owner or operator and the public, when the draft RCRA standardized permit is public noticed, the opportunity to submit written comments on the plan and to the draft permit as allowed by 35 Ill. Adm. Code 705.303(b). The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever it determines that such a hearing might clarify one or more issues concerning the closure plan, and the permit.

2) The Agency must give public notice of the hearing 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.113, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) This subsection (e) corresponds with 40 CFR 267.114, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

f) Time allowed for closure.

1) Within 90 days after the final volume of hazardous waste is sent to a unit, the facility owner or operator must treat or remove all hazardous wastes from the unit following the approved closure plan.

2) The facility owner or operator must complete final closure activities in accordance with the approved closure plan within 180 days after the final volume of hazardous wastes is sent to the unit. The Agency may approve an extension of 180 days to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that the conditions of subsections (f)(2)(A) and (f)(2)(B) of this Section are fulfilled subject to the limitation of

subsection (f)(2)(C) of this Section:

A) The final closure activities will take longer than 180 days to complete due to circumstances beyond the control of the owner or operator, excluding groundwater contamination; and

B) The facility owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed, but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.

C) The demonstration of subsections (f)(2)(A) and (f)(2)(B) of this Section must be made at least 30 days prior to the expiration of the initial 180-day period.

3) Nothing in this subsection (f) precludes the facility owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved final closure plan at any time before or after notification of final closure.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.115, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Disposition of contaminated equipment, structure, and soils. The facility owner or operator must properly dispose of or decontaminate all contaminated equipment, structures, and soils during the partial and final closure periods. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste following all applicable requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.116, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) Certification of closure. Within 60 days after the completion of final closure of each unit under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 705, the facility owner or operator must submit to the Agency, by registered mail, a certification that each hazardous waste management unit or facility, as applicable, has been closed following the specifications in the closure plan. Both the owner or operator and an independent registered professional engineer must sign the certification. The owner or operator must furnish documentation supporting the independent registered professional engineer's certification to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for closure pursuant to Section 727.240(d)(10).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.117, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.240 Financial Requirements

a) Applicability and substance of the financial requirements.

1) The regulations in this Section apply to owners and operators who treat or store hazardous waste under a RCRA standardized permit, except as provided in Section 727.100(a)(2) or subsection (a)(4) of this Section.

2) The facility owner or operator must do each of the following:

A) It must prepare a closure cost estimate as required in subsection (c) of this Section;

B) It must demonstrate financial assurance for closure as required in subsection (d) of this Section; and

C) It must demonstrate financial assurance for liability as required in subsection (h) of this Section.

3) The owner or operator must notify the Agency if the owner or operator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy) of the United States Code (see also subsection (i) of this Section).

4) States and the federal government are exempt from the requirements of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.140, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Definitions of terms as used in this Section.

1) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 727.210(c).

2) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsections (c)(1), (c)(2), and (c)(3) of this Section.

3) This subsection (b)(3) corresponds with 40 CFR 267.141(c), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

4) "Parent corporation" means a corporation that directly owns at least 50

percent of the voting stock of the corporation which is the facility owner or operator. In this instance, the owned corporation that is the facility owner or operator is deemed a "subsidiary" of the parent corporation.

5) This subsection (b)(5) corresponds with 40 CFR 267.141(e), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

6) The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

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

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

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

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

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

7) In the liability insurance requirements, the terms "bodily injury" and "property damage" have the meanings given them by applicable State law. However, these terms do not include those liabilities that, consistent with standard industry practices, are excluded from coverage in liability insurance policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

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

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

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

8) "Substantial business relationship" means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the facility owner or operator is demonstrated to the satisfaction of the Agency.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.141, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Cost estimate for closure.

1) The facility owner or operator must have at the facility a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Section 727.210(b) through (f) and applicable closure requirements in Sections 727.270(g), 727.290(l), and 727.900(i).

A) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan (see Section 727.210(c)(2)).

B) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See the definition of parent corporation in subsection (b)(4) of this Section.) The owner or operator may use costs for on-site disposal if it can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

C) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-

hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

D) The facility owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.

2) During the active life of the facility, the facility owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with subsection (d) of this Section. For an owner or operator using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the guarantor's fiscal year and before submission of updated information to the Agency as specified in subsection (n)(3) of this Section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product (Deflator) published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (c)(2)(A) and (c)(2)(B) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

A) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

B) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

3) During the active life of the facility, the facility owner or operator must revise the closure cost estimate no later than 30 days after the Agency has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (c)(2) of this Section.

4) The facility owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with subsections (c)(1) and (c)(3) of this Section and, when this estimate has been adjusted in accordance with subsection (c)(2) of this Section, the latest adjusted closure cost estimate.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.142, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Financial assurance for closure. The facility owner or operator must establish financial assurance for closure of each storage or treatment unit that it owns or operates. In establishing financial assurance for closure, the owner or operator must choose from among the financial assurance mechanisms in subsections (d)(1) through (d)(7) of this Section. The owner or operator can also use a combination of mechanisms for a single facility if the combination meets the requirement in subsection (d)(8) of this Section, or it may use a single mechanism for multiple facilities as in subsection (d)(9) of this Section. The Agency must release the owner or operator from the requirements of this subsection (d) after the owner or operator meets the criteria pursuant to subsection (d)(10) of this Section.

1) Closure trust fund. An owner or operator may use the "closure trust fund" that is specified in 35 Ill. Adm. Code 724.243(a)(1), (a)(2), and (a)(6) through (a)(11). For purposes of this subsection (d)(1), the following provisions also apply:

A) Payments into the trust fund for a new facility must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over three years, whichever period is shorter. This period of time is hereafter referred to as the "pay-in period."

B) For a new facility, the facility owner or operator must make the first payment into the closure trust fund before the facility may accept the initial storage. A receipt from the trustee must be submitted by the owner or operator to the Agency before this initial storage of waste. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in subsection (d)(8) of this Section for multiple mechanisms. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The owner or operator determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is as follows:

$$NP = \frac{(CCE - CVTF)}{YRPP}$$

Where:

NP = the amount of the next payment

CCE = the current closure cost estimate
CVTF = the current value of the trust fund
YRPP = the years remaining in the pay-in period.

C) The owner or operator of a facility existing on the effective date of this subsection (d)(1) can establish a trust fund to meet the financial assurance requirements of this subsection (d)(1). If the value of the trust fund is less than the current closure cost estimate when a final approval of the permit is granted for the facility, the owner or operator must pay the difference into the trust fund within 60 days.

D) The facility owner or operator may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsections (d)(1)(B) or (d)(1)(C) of this Section.

E) The facility owner or operator must submit a trust agreement with the wording specified in 40 CFR 264.151(a)(1), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2) Surety bond guaranteeing payment into a closure trust fund. An owner or operator may use the "surety bond guaranteeing payment into a closure trust fund," as specified in 35 Ill. Adm. Code 724.243(b), including the use of the surety bond instrument specified at 40 CFR 264.151(b), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified at 35 Ill. Adm. Code 724.243(b)(3).

3) Surety bond guaranteeing performance of closure. An owner or operator may use the "surety bond guaranteeing performance of closure," as specified in 35 Ill. Adm. Code 724.243(c), the submission and use of the surety bond instrument specified at 40 CFR 264.151(c), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified at 35 Ill. Adm. Code 724.243(c)(3).

4) Closure letter of credit. An owner or operator may use the "closure letter of credit" specified in 35 Ill. Adm. Code 724.243(d), the submission and use of the irrevocable letter of credit instrument specified in 40 CFR 264.151(d), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and the standby trust specified in 35 Ill. Adm. Code 724.243(d)(3).

5) Closure insurance. An owner or operator may use "closure insurance," as specified in 35 Ill. Adm. Code 724.243(e), utilizing the certificate of insurance for closure specified at 40 CFR 264.151(e), incorporated by

reference in 35 Ill. Adm. Code 720.111(b).

6) Corporate financial test. An owner or operator that satisfies the requirements of this subsection (d)(6) may demonstrate financial assurance up to the amount specified in this subsection (d)(6).

A) Financial component. See subsection (m) of this Section.

BOARD NOTE: It was necessary for the Board to codify corresponding 40 CFR 267.143(f)(1) as subsection (m) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(A) also include added subsection (m) of this Section, as applicable.

B) Recordkeeping and reporting requirements. See subsection (n) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2) as subsection (n) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(B) also include added subsection (n) of this Section, as applicable.

C) The terms of the guarantee must provide as set forth in subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(C) also include added subsection (o) of this Section, as applicable.

7) Corporate guarantee.

A) A facility owner or operator may meet the requirements of this subsection (d) by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsection (d)(6) of this Section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the

wording in 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The certified copy of the guarantee must accompany the letter from the guarantor's chief financial officer and accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

B) For a new facility, the guarantee must be effective and the guarantor must submit the items in subsection (d)(7)(A) of this Section and the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before the owner or operator places waste in the facility.

C) The terms of the guarantee must provide as required by subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(g)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(7), or (d)(7)(C) also include added subsection (o) of this Section, as applicable.

D) If a corporate guarantor no longer meets the requirements of subsection (d)(6)(A) of this Section, the owner or operator must, within 90 days, obtain alternative assurance, and submit the assurance to the Agency for approval. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days, and submit it to the Agency for approval.

E) The guarantor is no longer required to meet the requirements of this subsection (d)(7) when either of the following occurs:

i) The facility owner or operator substitutes alternate financial assurance as specified in this subsection (d); or

ii) The facility owner or operator is released from the requirements of this subsection (d) in accordance with subsection (d)(10) of this Section.

8) Use of multiple financial mechanisms. An owner or operator may use more than one mechanism at a particular facility to satisfy the requirements of this subsection (d). The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or operators cannot combine the financial test with the guarantee. The mechanisms must be as specified in subsections (d)(1), (d)(2), (d)(4), (d)(5), (d)(6), and (d)(7) of this Section, respectively, except it is the combination of mechanisms rather than a single mechanism that must provide assurance for an amount at least equal to the cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, it may use the trust fund as the standby trust for the other mechanisms. A single trust fund can be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

9) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial mechanism for multiple facilities, as specified in 35 Ill. Adm. Code 724.243(h).

10) Release of the owner or operator from the requirements of this subsection (d). Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency will notify the owner or operator in writing that the owner or operator is no longer required by this subsection (d) to maintain financial assurance for final closure of the facility, unless the Agency has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Agency must provide the owner or operator with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.143, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) This subsection (e) corresponds with 40 CFR 267.144, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

f) This subsection (f) corresponds with 40 CFR 267.145, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

g) This subsection (g) corresponds with 40 CFR 267.146, which USEPA has marked "Reserved." This statement maintains structural consistency with the

corresponding federal rules.

h) Liability requirements.

1) Coverage for sudden accidental occurrences. The owner or operator of a hazardous waste treatment or storage facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsection (h)(1)(A) through (h)(1)(G) of this Section:

A) Trust fund for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a trust fund for liability coverage as specified in 35 Ill. Adm. Code 724.247(j).

B) Surety bond for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a surety bond for liability coverage as specified in 35 Ill. Adm. Code 724.247(i).

C) Letter of credit for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a letter of credit for liability coverage as specified in 35 Ill. Adm. Code 724.247(h).

D) Insurance for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining liability insurance as specified in 35 Ill. Adm. Code 724.247(a)(1).

E) Financial test for liability coverage. The owner or operator may meet the requirements of this subsection (h) by passing a financial test as specified in subsection (h)(6) of this Section.

F) Guarantee for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a guarantee as specified in subsection (h)(7) of this Section.

G) Combination of mechanisms. The owner or operator may demonstrate the required liability coverage through the use of combinations of mechanisms as allowed by 35 Ill. Adm. Code 724.247(a)(6).

H) An owner or operator shall notify the Agency in writing within 30 days whenever either of the following occurs:

i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (h)(1)(A) through (h)(1)(G) of this Section; or

ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section; or

iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section.

2) This subsection (h)(2) corresponds with 40 CFR 267.147(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

3) This subsection (h)(3) corresponds with 40 CFR 267.147(c), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

4) This subsection (h)(4) corresponds with 40 CFR 267.147(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

5) Period of coverage. Within 60 days after receiving certifications from the facility owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage from that facility, unless the Agency has reason to believe that closure has not been in accordance with the approved closure plan.

6) Financial test for liability coverage. A facility owner or operator that satisfies the requirements of this subsection (h)(6) may demonstrate

financial assurance for liability up to the amount specified in this subsection (h)(6):

A) Financial component.

i) If using the financial test for only liability coverage, the owner or operator must have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus $10 million.

ii) The owner or operator must have assets located in the United States amounting to at least the amount of liability covered by this financial test.

iii) An owner or operator who is demonstrating coverage for liability and any other environmental obligations, including closure pursuant to subsection (d)(6) of this Section, through a financial test must meet the requirements of subsection (d)(6) of this Section.

B) Recordkeeping and reporting requirements. See subsection (p) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(f)(2) as subsection (p) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(6), or (h)(6)(B) also include added subsection (p) of this Section, as applicable.

7) Guarantee for liability coverage.

A) Subject to subsection (h)(7)(B) of this Section, a facility owner or operator may meet the requirements of this subsection (h) by obtaining a written guarantee, hereinafter referred to as "guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (h)(6)(A) and (h)(6)(B). The wording of the guarantee must be identical to the wording specified in 40 CFR 264.151(h)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b). A certified copy of the guarantee must accompany the items sent to the Agency, as specified in subsection (h)(6)(B) of this Section. One of these items must be the letter

from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

i) If the facility owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden accidental occurrences arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.

ii) This subsection (h)(7)(A)(ii) corresponds with 40 CFR 267.147(g)(1)(ii), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

B) Foreign Corporations. See subsection (q) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(g)(2) as subsection (q) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(7), or (h)(7)(B) also include added subsection (q) of this Section, as applicable. See the further explanation of the differences between subsection (q) of this Section and 40 CFR 267.147(g)(2) in the Board note appended to subsection (q).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.147, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

i) Incapacity of owners or operators, guarantors, or financial institutions.

1) The facility owner or operator must notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in subsections (d)(7) and (h)(7) of this Section must make such a notification if it is named as debtor, as required under the terms of the corporate guarantee (see 40 CFR 264.151(h), incorporated by reference in 35 Ill. Adm. Code 720.111(b)).

2) An owner or operator who fulfills the requirements of subsection (d) or (h) of this Section by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.148, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

j) This subsection (j) corresponds with 40 CFR 267.149, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

k) State assumption of responsibility.

1) If the State either assumes legal responsibility for an owner's or operator's compliance with the closure care or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of subsection (d) or (h) of this Section if the Agency determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this Section. The Agency must evaluate the equivalency of State guarantees principally in terms of the following: the certainty of the availability of funds for the required closure care activities or liability coverage; and the amount of funds that will be made available. The Agency may also consider other factors as it deems appropriate. The facility owner or operator must submit to the Agency a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Section. The letter from the State must include, or have attached to it, the following information: the facility's USEPA identification number, the facility name and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. The Agency will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Section. The Agency may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of subsection (d) or (h) of this Section,

as applicable.

2) If a State's assumption of responsibility is found acceptable as specified in subsection (k)(1) of this Section except for the amount of funds available, the owner or operator may satisfy the requirements of this Section by use of both the State's assurance and additional financial mechanisms as specified in this Section. The amount of funds available through the State and federal mechanisms must at least equal the amount required by this Section.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.150, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

l) Wording of the instruments.

1) The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in subsection (d)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration A of this Part.

BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(a) as Appendix A, Illustration A of this Part. The Board intends that any citation to this subsection (l) or (l)(1) also include added Appendix A, Illustration A of this Part, as applicable.

2) The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as set forth in Appendix A, Illustration B of this Part.

BOARD NOTE: It was necessary for the Board to codify the form set forth in 40 CFR 267.151(b) as Appendix A, Illustration B of this Part. The Board intends that any citation to this subsection (l) or (l)(2) also include added Appendix A, Illustration B of this Part, as applicable.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.151, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

m) Financial component.

1) The facility owner or operator must satisfy one of the following three conditions:

A) A current rating for its senior unsecured debt of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A or Baa, as issued by Moody's; or

B) A ratio of less than 1.5 comparing total liabilities to net worth; or

C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

2) The tangible net worth of the owner or operator must be greater than both of the following:

A) The sum of the current environmental obligations (see subsection (n)(1)(A)(i) of this Section), including guarantees, covered by a financial test plus $10 million, except as provided in subsection (m)(2)(B) of this Section; and

B) $10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations (see subsection (n)(1)(A)(i) of this Section) covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.

3) The facility owner or operator must have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in subsection (n)(1)(A)(i) of this Section.

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.143(f)(1), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(A) of this Section also include this added subsection (m), as applicable.

n) Recordkeeping and reporting requirements.

1) The facility owner or operator must submit the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer that provides the following information:

i) It lists all the applicable current types, amounts, and sums

of environmental obligations covered by a financial test. These obligations include both obligations in the programs that USEPA directly operates and obligations where USEPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to the information described in subsection (n)(1)(E) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2)(i)(A)(*1*) through (f)(2)(i)(A)(*1*)(*vii*) as subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section or to this subsection (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) also include added subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section, as applicable.

ii) It provides evidence demonstrating that the firm meets the conditions of either subsection (m)(1)(A), (m)(1)(B), or (m)(1)(C) of this Section and subsections (m)(2) and (m)(3) of this Section.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance.

C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (m)(1)(B) or (m)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (n)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a

special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in subsection (m)(2)(B) of this Section, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least $10 million plus the amount of any guarantees provided.

E) Contents of the letter signed by the chief financial officer (for the purposes of subsection (n)(1)(A)(i) of this Section):

i) The liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to the applicable provisions of 35 Ill. Adm. Code 724.201, 724.242, 724.244, 724.247, 725.242, 725.244, and 725.247;

ii) The cost estimates required for municipal solid waste management facilities pursuant to the applicable provisions of Subpart G of 35 Ill. Adm. Code 811;

iii) The current plugging cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 704.212;

iv) The federally required cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280.93;

v) The federally required cost estimates required for PCB storage facilities pursuant to 40 CFR 761.65;

vi) Any federally required financial assurance required by or as part of an action undertaken pursuant to the Comprehensive Environmental Response, Compensation,

and Liability Act (42 USC 9601 et seq.); and

vii) Any other environmental obligations that are assured through a financial test.

BOARD NOTE: Subsections (n)(1)(E) through (n)(1)(E)(vi) of this Section is derived from 40 CFR 267.143(f)(2)(i)(A)(*1*) through (f)(2)(i)(A)(*1*)(*vi*), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), (d)(6)(B), (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) of this Section also include added subsections (n)(1)(E) through (n)(1)(E)(vi), as applicable.

2) The owner or operator of a new facility must submit the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before placing waste in the facility.

3) After the initial submission of items specified in subsection (n)(1) of this Section, the owner or operator must send updated information to the Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (n)(1) of this Section.

4) The owner or operator is no longer required to submit the items specified in this subsection (n) of this Section or comply with the requirements of subsection (d)(6) of this Section when either of the following occurs:

A) The owner or operator substitutes alternate financial assurance as specified in subsection (d) of this Section that is not subject to these recordkeeping and reporting requirements; or

B) The Agency releases the owner or operator from the requirements of subsection (d) of this Section in accordance with subsection (d)(10) of this Section.

5) An owner or operator who no longer meets the requirements of subsection (m) of this Section cannot use the financial test to demonstrate financial assurance. Instead an owner or operator who no longer meets the requirements of subsection (m) of this Section, must do the following:

A) It must send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The owner or

operator must send this notice by certified mail within 90 days following the close the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this subsection (n) and subsections (d), (m), and (o) of this Section; and

B) It must provide alternative financial assurance within 120 days after the end of such fiscal year.

6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (m) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in subsection (n) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (m) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (d) of this Section.

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.143(f)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section also include this added subsection (n), as applicable.

o) The terms of the guarantee must provide as follows:

1) If the facility owner or operator fails to perform closure at a facility covered by the guarantee, the guarantor will accomplish the following:

A) It will perform, or pay a third party to perform closure (performance guarantee); or

B) It will establish a fully funded trust fund as specified in subsection (d)(1) of this Section in the name of the owner or operator (payment guarantee).

2) The guarantee will remain in force for as long as the facility owner or operator must comply with the applicable financial assurance requirements of this Section unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency as evidenced by the return receipts.

3) If notice of cancellation is given, the facility owner or operator must,

within 90 days following receipt of the cancellation notice by the owner or operator and the Agency, obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Agency. If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from the Agency within the 90-day period, the guarantor must provide that alternate assurance in the name of the owner or operator and submit the necessary documentation for the alternative assurance to the Agency within 120 days after the cancellation notice.

BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR 267.143(f)(3), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(C) of this Section also include this added subsection (o), as applicable.

p) Recordkeeping and reporting requirements.

1) The owner or operator must submit the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer that provides evidence demonstrating that the firm meets the conditions of subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section. If the firm is providing only liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, the letter should use the wording in subsection (l)(2) of this Section. If the firm is providing only liability coverage through a financial test for facilities regulated pursuant to this Part 727 and 35 Ill. Adm. Code 724 or 725, it should use the letter in 40 CFR 264.151(g), incorporated by reference in 35 Ill. Adm. Code 720.111(b). If the firm is providing liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, and it assures closure costs or any other environmental obligations through a financial test, it must use the letter in subsection (l)(1) of this Section for the facilities issued a permit pursuant to this Part 727.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions

provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this subsection (h) within 30 days after the notification of disallowance.

C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section that are different from data in the audited financial statements referred to in subsection (p)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

2) The owner or operator of a new facility must submit the items specified in subsection (p)(1) of this Section to the Agency at least 60 days before placing waste in the facility.

3) After the initial submission of items specified in subsection (p)(1) of this Section, the facility owner or operator must send updated information to the Agency within 90 days following the close of the owner or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (p)(1) of this Section.

4) The owner or operator is no longer required to submit the items specified in this subsection (p) or comply with the requirements of subsection (h)(6) of this Section when either of the following occurs:

A) The facility owner or operator substitutes alternate financial assurance as specified in subsection (h) of this Section that is not subject to these recordkeeping and reporting requirements; or

B) The Agency releases the facility owner or operator from the

requirements of subsection (h) of this Section in accordance with subsection (d)(10) of this Section.

5) An owner or operator that no longer meets the requirements of subsection (h)(6)(A) of this Section cannot use the financial test to demonstrate financial assurance. An owner or operator who no longer meets the requirements of subsection (h)(6)(A) of this Section, must do the following:

A) Send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The facility owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section.

B) Provide alternative financial assurance within 120 days after the end of such fiscal year.

6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (h)(6)(A) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in this subsection (p) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (h)(6)(A) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (h) of this Section.

BOARD NOTE: Subsection (p) of this Section is derived from 40 CFR 267.147(f)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(6), or (h)(6)(B) of this Section also include this added subsection (p), as applicable.

q) Foreign corporations.

1) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:

A) The guarantee was signed in Illinois by an authorized agent of the guarantor;

B) The guarantee is governed by Illinois law; and

C) The name and address of the guarantor's registered agent for service of process.

2) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

BOARD NOTE: Subsection (q) of this Section is derived from 40 CFR 267.147(g)(2), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(7), or (h)(7)(B) of this Section also include this added subsection (q), as applicable. The text of 40 CFR 267.147(g)(2) is substantially identical to that of 40 CFR 264.147(g)(2). The Board has substituted the language of 35 Ill. Adm. Code 724.247(g)(2), which corresponds with 40 CFR 264.147(g)(2), for that of 40 CFR 267.147(g)(2).

Section 727.270 Use and Management of Containers

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in containers under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.170, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Standards applicable to containers. Standards apply to the condition of containers, to the compatibility of waste with containers, and to the management of containers holding hazardous waste.

1) Condition of containers. If a container holding hazardous waste is not in good condition (for example, it exhibits severe rusting or apparent structural defects) or if it begins to leak, the facility owner or operator must undertake either of the following actions:

A) It must transfer the hazardous waste from the defective container to a container that is in good condition; or

B) It must manage the waste in some other way that complies with the requirements of this Part.

2) Compatibility of waste with containers. To ensure that the ability of the container to contain the waste is not impaired, the facility owner or operator must use a container made of or lined with materials that are

compatible and will not react with the hazardous waste to be stored.

3) Management of containers.

A) The facility owner or operator must always keep a container holding hazardous waste closed during storage, except when it adds or removes waste.

B) The facility owner or operator must never open, handle, or store a container holding hazardous waste in a manner that may rupture the container or cause it to leak.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.171, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Inspection requirements. At least weekly, the facility owner or operator must inspect areas where it stores containers, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.172, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Standards applicable to the container storage areas.

1) The facility owner or operator must design and operate a containment system for its container storage areas according to the requirements in subsection (d)(2) of this Section, except as otherwise provided by subsection (d)(3) of this Section.

2) The design and operating requirements for a containment system are the following:

A) A base must underlie the containers that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

B) The base must be sloped, or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

C) The containment system must have sufficient capacity to contain 10 percent of the volume of all containers placed in it, or the

volume of the largest container, whichever is greater. This requirement does not apply to containers that do not contain free liquids;

D) The owner or operator must prevent run-on into the containment system, unless the collection system has sufficient excess capacity to contain the liquid, in addition to that required by subsection (d)(2)(C) of this Section; and

E) The owner or operator must remove any spilled or leaked waste and accumulated precipitation from the sump or collection area as promptly as is necessary to prevent overflow of the collection system.

3) Except as provided in subsection (d)(4) of this Section, the owner or operator does not need a containment system, as defined in subsection (d)(2) of this Section, for storage areas that store containers holding only wastes with no free liquids if either of the following conditions are fulfilled:

A) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

B) The containers are elevated or are otherwise protected from contact with accumulated liquid.

4) The facility owner or operator must have a containment system defined by subsection (d)(2) of this Section for storage areas that store containers holding F020, F021, F022, F023, F026, and F027 wastes, even if the wastes do not contain free liquids.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.173, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Special requirements for ignitable or reactive waste. The facility owner or operator must locate containers holding ignitable or reactive waste at least 15 meters (50 feet) from its facility property line. The owner or operator must also follow the general requirements for ignitable or reactive wastes that are specified in Section 727.110(h)(1).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.174, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) Special requirements for incompatible wastes.

1) The facility owner or operator must not place incompatible wastes or

incompatible wastes and materials (see appendix V to 40 CFR 264, incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) in the same container, unless it complies with Section 727.110(h)(2).

2) The facility owner or operator must not place hazardous waste in an unwashed container that previously held an incompatible waste or material.

3) The facility owner or operator must separate a storage container holding a hazardous waste that is incompatible with any waste or with other materials stored nearby in other containers, piles, open tanks, or surface impoundments from the other materials, or protect the containers by means of a dike, berm, wall, or other device.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.175, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Requirements for stopping the use of containers. The facility owner or operator must remove all hazardous waste and hazardous waste residues from the containment system. The owner or operator must decontaminate or remove remaining containers, liners, bases, and soil containing, or contaminated with, hazardous waste or hazardous waste residues.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.176, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) Air emission standards. The facility owner or operator must manage all hazardous waste placed in a container according to the requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 724. Under a RCRA standardized permit, the following control devices are permissible: a thermal vapor incinerator, a catalytic vapor incinerator, a flame, a boiler, a process heater, a condenser, or a carbon absorption unit.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.177, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.290 Tank Systems

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in above-ground or on-ground tanks under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2).

1) A facility owner or operator does not have to meet the secondary containment requirements in subsection (f) of this Section if its tank systems do not contain free liquids and are situated inside a building with

an impermeable floor. The owner or operator must demonstrate the absence or presence of free liquids in the stored or treated waste, using Method 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA Publication SW–846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

2) The facility owner or operator does not have to meet the secondary containment requirements of subsection (f)(1) of this Section if its tank system, including sumps, as defined in 35 Ill. Adm. Code 720.110, is part of a secondary containment system to collect or contain releases of hazardous wastes.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.190, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Required design and construction standards for new tank systems or components. The facility owner or operator must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the wastes to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment, reviewed and certified by an independent, qualified registered professional engineer, following 35 Ill. Adm. Code 702.126(d), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, at a minimum, the following information:

1) Design standards for the construction of tanks or the ancillary equipment.

2) Hazardous characteristics of the wastes to be handled.

3) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of the following:

A) Factors affecting the potential for corrosion, such as the following:

i) Soil moisture content;

ii) Soil pH;

iii) Soil sulfides level;

iv) Soil resistivity;

v) Structure to soil potential;

vi) Existence of stray electric current; and

vii) Existing corrosion-protection measures (for example, coating, cathodic protection, etc.).

B) The type and degree of external corrosion protection needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

i) Corrosion-resistant materials of construction (such as special alloys, fiberglass reinforced plastic, etc.);

ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (for example, impressed current or sacrificial anodes); and

iii) Electrical isolation devices (such as insulating joints, flanges, etc.).

4) Design considerations to ensure that the following will occur:

A) Tank foundations will maintain the load of a full tank;

B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone subject to the standards of Section 727.110(i)(1); and

C) Tank systems will withstand the effects of frost heave.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.191, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Handling and inspection procedures during installation of new tank systems.

1) The facility owner or operator must ensure that it follows proper handling procedures to prevent damage to a new tank system during installation. Before placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

A) Weld breaks;

B) Punctures;

C) Scrapes of protective coatings;

D) Cracks;

E) Corrosion; or

F) Other structural damage or inadequate construction or installation.

2) The facility owner or operator must remedy all discrepancies before the tank system is placed in use.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.192, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Testing requirements. The facility owner or operator must test all new tanks and ancillary equipment for tightness before you place them in use. If the owner or operator finds a tank system that is not tight, it must perform all repairs necessary to remedy the leaks in the system before it covers, encloses, or places the tank system into use.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.193, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Installation requirements.

1) The facility owner or operator must support and protect ancillary equipment against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

2) The facility owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided pursuant to subsection (b)(3) of this Section, to ensure the integrity of the tank system during use of the tank system. An independent corrosion expert must supervise the installation of a corrosion protection system that is field fabricated to ensure proper installation.

3) The facility owner or operator must obtain, and keep at the facility, written statements by those persons required to certify the design of the tank system and to supervise the installation of the tank system as required in subsections (c), (d), (e)(1), and (e)(2) of this Section. The written statement must attest that the tank system was properly designed and

installed and that the owner or operator made repairs pursuant to subsections (c) and (d) of this Section. These written statements must also include the certification statement as required in 35 Ill. Adm. Code 702.126(d).

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.194, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) Secondary containment requirements. To prevent the release of hazardous waste or hazardous constituents to the environment, the owner or operator must provide secondary containment that meets the requirements of this subsection (f) for all new and existing tank systems.

1) Secondary containment systems must meet both of the following requirements:

A) It must be designed, installed, and operated to prevent any soil, groundwater, or surface water at any time during the use of the tank system; and

B) It must be capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

2) To meet the requirements of subsection (f)(1) of this Section, secondary containment systems must meet all of the following minimum requirements:

A) It must be constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);

B) It must be placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

C) It must be provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours; and

D) It must be sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. The facility owner or operator must remove spilled or leaked waste and accumulated precipitation from the secondary containment system within 24 hours, or as promptly as possible, to prevent harm to human health and the environment.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.195, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Required devices for secondary containment and their design, operating, and installation requirements.

1) Secondary containment for tanks must include one or more of the following features:

A) A liner (external to the tank);

B) A double-walled tank; and

C) An equivalent device; the owner or operator must maintain documentation of equivalency at the facility.

2) An external liner system must fulfill the following requirements:

A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. The additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

C) It must be free of cracks or gaps; and

D) It must be designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tanks (that is, it must be capable of preventing lateral as well as vertical migration of the waste).

3) A double-walled tank must fulfill the following requirements:

A) It must be designed as an integral structure (that is, it must be an inner tank completely enveloped within an outer shell) so that any

release from the inner tank is contained by the outer shell;

B) It must be protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

C) It must be provided with a built-in continuous leak detection system capable of detecting a release within 24 hours.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.196, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) Requirements for ancillary equipment. The facility owner or operator must provide ancillary equipment with secondary containment (for example, trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (f)(1) and (f)(2) of this Section, except for the following:

1) Above ground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

4) Pressurized above ground piping systems with automatic shut-off devices (for example, excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.197, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

i) General operating requirements for tank systems.

1) The facility owner or operator must not place hazardous wastes or treatment reagents in a tank system if the substances could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

2) The facility owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include the following minimum requirements:

A) Spill prevention controls (for example, check valves, dry

disconnect couplings, etc.);

B) Overfill prevention controls (for example, level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank, etc.); and

C) Sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

3) The facility owner or operator must comply with the requirements of subsection (k) of this Section if a leak or spill occurs in the tank system.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.198, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

j) Inspection requirements. The facility owner or operator must comply with the following requirements for scheduling, conducting, and documenting inspections:

1) It must develop and follow a schedule and procedure for inspecting overfill controls;

2) It must inspect the following at least once each operating day:

A) Aboveground portions of the tank system to detect corrosion or releases of waste;

B) Data gathered from monitoring and leak detection equipment (for example, pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design; and

C) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (for example, dikes) to detect erosion or signs of releases of hazardous waste (for example, wet spots, dead vegetation, etc.);

3) It must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

A) It must confirm that the cathodic protection system is operating properly within six months after initial installation and annually thereafter; and

B) It must inspect or test all sources of impressed current, as

appropriate, at least every other month; and

4) It must document, in the operating record of the facility, an inspection of those items in subsections (j)(1) through (j)(3) of this Section.

BOARD NOTE: Subsection (j) of this Section is derived from 40 CFR 267.199, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

k) Required actions in case of a leak or a spill. If there has been a leak or a spill from a tank system or secondary containment system, or if either system is unfit for use, the facility owner or operator must remove the system from service immediately, and it must satisfy the following requirements:

1) It must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release;

2) It must remove the waste from the tank system or secondary containment system, as follows:

A) If the release was from the tank system, the owner or operator must, within 24 hours after detecting the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed; or

B) If the material released was to a secondary containment system, the owner or operator must remove all released materials within 24 hours or as quickly as possible to prevent harm to human health and the environment;

3) It must immediately conduct a visual inspection of the release and, based on that inspection, undertake the following actions:

A) It must prevent further migration of the leak or spill to soils or surface water; and

B) It must remove, and properly dispose of, any visible contamination of the soil or surface water;

4) It must report any release to the environment, except as provided in subsection (k)(4)(A) of this Section, to the Agency within 24 hours of its detection. If the owner or operator has reported the release to USEPA pursuant to federal 40 CFR 302, that report will satisfy this requirement, subject to the following exceptions:

A) The facility owner or operator does not need to report on a leak or spill of hazardous waste if it fulfills the following conditions:

i) The spill was less than or equal to a quantity of one pound; and

ii) The facility owner or operator immediately contained and cleaned up the spill; and

B) Within 30 days of detection of a release to the environment, the owner or operator must submit a report to the Agency that contains the following information:

i) The likely route of migration of the release;

ii) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);

iii) The results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, the owner or operator must submit these data to the Agency as soon as they become available;

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

v) A description of response actions taken or planned;

5) It must either close the system or make necessary repairs, as follows:

A) Unless the owner or operator satisfies the requirements of subsections (k)(5)(B) and (k)(5)(C) of this Section, it must close the tank system according to subsection (l) of this Section;

B) If the cause of the release was a spill that has not damaged the integrity of the system, the owner or operator may return the system to service as soon as it removes the released waste and makes any necessary repairs; or

C) If the cause of the release was a leak from the primary tank system into the secondary containment system, the owner or operator must repair the system before returning the tank system to service; and

6) If the owner or operator has made extensive repairs to a tank system in accordance with subsection (k)(5) of this Section (for example, installation

of an internal liner; repair of a ruptured primary containment or secondary containment vessel, etc.), it may not return the tank system to service unless the repair is certified by an independent, qualified, registered, professional engineer in accordance with 35 Ill. Adm. Code 702.126(d), as follows:

A) The engineer must certify that the repaired system is capable of handling hazardous wastes without release for the intended life of the system; and

B) The facility owner or operator must submit this certification to the Agency within seven days after returning the tank system to use.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.200, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

l) Requirements when the owner or operator stops operating the tank system. When the facility owner or operator close a tank system, it must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in Sections 727.210 and 727.240.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.201, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

m) Special requirements for ignitable or reactive wastes.

1) The facility owner or operator may not place ignitable or reactive waste in tank systems, unless any of the following three conditions are fulfilled:

A) The owner or operator treats, renders, or mixes the waste before or immediately after placement in the tank system so that the following is true:

i) The owner or operator complies with Section 727.110(h)(2); and

ii) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste pursuant to 35 Ill. Adm. Code 721.121 or 721.123;

B) The owner or operator stores or treats the waste in such a way that it is protected from any material or conditions that may cause the

waste to ignite or react; or

C) The facility owner or operator uses the tank system solely for emergencies.

2) If the facility owner or operator stores or treats ignitable or reactive waste in a tank, it must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built on, as required in Tables 2–1 through 2–6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a)).

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.202, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

n) Special requirements for incompatible wastes.

1) A facility owner or operator may not place incompatible wastes or incompatible wastes and materials in the same tank system, unless it complies with Section 727.110(h)(2).

2) A facility owner or operator may not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless it complies with Section 727.110(h)(2).

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.203, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

o) Air emission standards. The facility owner or operator must manage all hazardous waste placed in a tank following the requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 724. Under a RCRA standardized permit, the following control devices are permissible: a thermal vapor incinerator, a catalytic vapor incinerator, a flame, a boiler, a process heater, a condenser, or a carbon absorption unit.

BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR 267.204, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.900 Containment Buildings

a) Applicability of this Section. This Section applies to the owner or operator of a facility that treats or stores hazardous waste in containment buildings under a RCRA standardized permit pursuant to Subpart J of 35 Ill. Adm. Code 703, except as provided in Section 727.100(a)(2). Storage or treatment in a

containment building is not land disposal, as defined in 35 Ill. Adm. Code 728.102, if the unit meets the requirements of subsections (b), (c), and (d) of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.1100, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Design and operating standards for containment buildings. A containment building must comply with the design and operating standards in this subsection (b). The Agency may consider standards established by professional organizations generally recognized by the industry, such as the American Concrete Institute (ACI) or the American Society of Testing Materials (ASTM), in judging the structural integrity requirements of this subsection (b).

1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g., precipitation, wind, runon, etc.), and to assure containment of managed wastes.

2) The floor and containment walls of the unit, including the secondary containment system, if required pursuant to subsection (d) of this Section, must be designed and constructed of manmade materials of sufficient strength and thickness to accomplish the following:

A) They must support themselves, the waste contents, and any personnel and heavy equipment that operates within the unit;

B) They must prevent failure due to any of the following causes:

i) Pressure gradients, settlement, compression, or uplift;

ii) Physical contact with the hazardous wastes to which they are exposed;

iii) Climatic conditions;

iv) Stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls; or

v) Collapse or other failure.

3) All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes.

4) The facility owner or operator must not place incompatible hazardous wastes or treatment reagents in the unit or its secondary containment

system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail.

5) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

6) If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet these criteria:

A) The doors and windows provide an effective barrier against fugitive dust emissions pursuant to subsection (c)(4) of this Section; and

B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings.

7) The facility owner or operator must inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring equipment and leak detection equipment, as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

8) The facility owner or operator must obtain certification by a qualified registered professional engineer that the containment building design meets the requirements of subsections (b)(1) through (b)(6), (c), and (d) of this Section.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.1101, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Other requirements for preventing releases. The facility owner or operator must use controls and practices to ensure containment of the hazardous waste within the unit and must meet the following minimum requirements:

1) It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;

2) It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

3) It must take measures to prevent personnel or by equipment used in

handling the waste from tracking hazardous waste out of the unit. The owner or operator must designate an area to decontaminate equipment, and it must collect and properly manage any rinsate; and

4) It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 of appendix A to 40 CFR 60 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, the owner or operator must operate and maintain all associated particulate collection devices (for example, fabric filter, electrostatic precipitator, etc.) with sound air pollution control practices. The owner or operator must effectively maintain this state of no visible emissions at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.1102, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

d) Additional design and operating standards when liquids are in the containment building. If a containment building will be used to manage hazardous wastes containing free liquids or treated with free liquids, as determined by the paint filter test, by a visual examination, or by other appropriate means, the facility owner or operator must include the following:

1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (for example, a geomembrane covered by a concrete wear surface);

2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building, as follows:

A) The primary barrier must be sloped to drain liquids to the associated collection system; and

B) The facility owner or operator must collect and remove liquids and waste to minimize hydraulic head on the containment system at the earliest practicable time;

3) A secondary containment system, including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practical time, as follows:

A) The facility owner or operator may meet the requirements of the

leak detection component of the secondary containment system by installing a system that meets the following minimum construction requirements:

i) It is constructed with a bottom slope of one percent or more; and

ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m^2sec or more;

B) If the facility owner or operator will be conducting treatment in the building, it must design the area in which the treatment will be conducted to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building; and

C) The facility owner or operator must construct the secondary containment system using materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.1103, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

e) Alternatives to secondary containment requirements. Notwithstanding any other provision of this Section, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated both of the following:

1) The only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and

2) The containment of managed wastes and dust suppression liquids can be assured without a secondary containment system.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 267.1104, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

f) Requirements where the containment building contains areas both with and without secondary containment. For a containment building that contains both areas that have secondary containment and areas that do not have secondary

containment, the facility owner or operator must fulfill the following requirements:

1) It must design and operate each area in accordance with the requirements enumerated in subsections (b) through (d) of this Section;

2) It must take measures to prevent the release of liquids or wet materials into areas without secondary containment; and

3) It must maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 267.1105, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

g) Requirements in the event of a release. Throughout the active life of the containment building, if the facility owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures.

1) Upon detection of a condition that has lead to a release of hazardous waste (for example, upon detection of leakage from the primary barrier), the owner or operator must undertake each of the following actions:

A) It must enter a record of the discovery in the facility operating record;

B) It must immediately remove the portion of the containment building affected by the condition from service;

C) It must determine what steps it will need to take to repair the containment building, to remove any leakage from the secondary collection system, and to establish a schedule for accomplishing the cleanup and repairs; and

D) Within seven days after the discovery of the condition, it must notify the Agency of the condition, and within 14 working days, provide a written notice to the Agency with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.

2) The Agency must review the information submitted, make a determination regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in

writing.

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

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 267.1106, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

h) A containment building that can be considered secondary containment. A containment building can serve as an acceptable secondary containment system for tanks placed within the building if both of the following conditions are fulfilled:

1) The containment building can serve as an external liner system for a tank if it meets the requirements of Section 727.290(g)(2); and

2) The containment building also meets the requirements of Sections 727.290(f)(1), (f)(2)(A), and (f)(2)(B).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.1107, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

i) Requirements when the owner or operator stops operating the containment building. When the facility owner or operator close a containment building, it must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate and manage them as hazardous waste unless 35 Ill. Adm. Code 721.103(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment buildings must meet all of the requirements specified in Sections 727.210 and 727.240.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.1108, as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

Section 727.Appendix A Financial Assurance Forms

Illustration A Letter of Chief Financial Officer: Financial Assurance for Facility Closure

[The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in subsection (d)(6) of this Section. The letter must be worded as

follows, except that instructions in brackets are to be deleted or replaced with the relevant information, including this introductory paragraph, as appropriate, and the brackets deleted:]

I am the chief financial officer of [insert the name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure costs, as specified in 35 Ill. Adm. Code 727.240. This firm qualifies for the financial test on the basis of having [insert the appropriate of the following statements: "a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's"; "a ratio of less than 1.50 comparing total liabilities to net worth"; or "a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities."]

This firm [insert the appropriate of the following statements: "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [insert the month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [insert the date].

[If this firm qualifies on the basis of its bond rating fill in the requested information:] This firm has a rating of its senior unsecured debt of [insert the bond rating] "from" [insert the appropriate of the following entities: "Standard and Poor's" or "Moody's"].

[Complete Line 1. Total Liabilities below and then skip the remaining questions in the next section and resume completing the form at the section entitled "Obligations Covered by a Financial Test or Corporate Guarantee."]

[If this firm qualifies for the financial test on the basis of its ratio of liabilities to net worth, or sum of income, depreciation, depletion, and amortization to net worth, please complete the following section.]

*1. Total Liabilities $_____

*2. Net Worth $_____

*3. Net Income $_____

*4. Depreciation $_____

*5. Depletion (if applicable) $_____

*6. Amortization $_____

*7. Sum of Lines 3, 4, 5 & 6 $_____

[If the above figures are taken directly from the most recent audited financial statements for this

firm insert the following statement: "The above figures are taken directly from the most recent audited financial statements for this firm." If they are not, insert the following statement: "The following items are not taken directly from the firms most recent audited financial statements" [insert the numbers of the items and attach an explanation of how they were derived.]

[Complete the following calculations:]

8. Line 1 ÷ Line 2 = $_____

9. Line 7 ÷ Line 1 = $_____

Is Line 8 less than 1.5? Yes _____ No _____

Is Line 9 greater than 0.10? Yes _____ No _____

[If you did not answer Yes to either of these two questions, you cannot use the financial test and need not complete this letter. Instead, you must notify the permitting authority for the facility that you intend to establish alternate financial assurance as specified in 35 Ill. Adm. Code 727.240(d). The owner or operator must send this notice by certified mail within 90 days following the close of the owner's or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of Section 727.240(d). The owner or operator must also provide alternative financial assurance within 120 days after the end of such fiscal year.]

Obligations Covered by a Financial Test or Corporate Guarantee

[On the following lines list all obligations that are covered by a financial test or a corporate guarantee extended by your firm. You may add additional lines and leave blank entries that do not apply to your situation.]

Hazardous Waste Facility Name and ID	State	Closure	Post-Closure	Corrective Action
_____	_____	$_____	$_____	$_____
_____	_____	_____	_____	_____
Total Hazardous Waste Third-Party Liability:				$_____

Municipal Solid Waste Landfill Facilities	State	Closure	Post-Closure	Corrective Action
_____	_____	$_____	$_____	$_____
_____	_____	_____	_____	_____
Total Municipal Solid Waste Landfill Facility Liability:				$_____

Underground Injection Control Facilities	State	Plugging Action
_____	_____	$_____
_____	_____	_____
Total Underground Injection Control Facility Liability:		$_____

Petroleum Underground Storage Tanks	State	Closure
_____	_____	$_____
_____	_____	_____
Total Petroleum Underground Storage Tank Liability:		$_____

PCB Storage Facility Name and ID	State	Closure
_____	_____	$_____
_____	_____	_____
Total PCB Storage Facility Liability:		$_____

Any financial assurance federally required under, or as part of an action taken under, the Comprehensive Environmental Response, Compensation, and Liability Act.

Site Name	State	Amount
_____	_____	$_____
_____	_____	_____
Total Financial Assurance under the Comprehensive Environmental Response, Compensation, and Liability Act:		$_____

Any other environmental obligations that are assured through a financial test.

Site Name	Amount
_____	$_____
_____	_____
Total Other Environmental Obligations Assured:	$_____

*10. Total of all amounts $_____

*11. Line 10 + $10,000,000 = $_____

*12. Total Assets $_____

*13. Intangible Assets $_____

*14. Tangible Assets (Line 12-Line 13) $_____

*15. Tangible Net Worth (Line 14-Line 1) $_____

*16. Assets in the United States $_____

Is Line 15 less than Line 11? Yes _____No _____

Is Line 16 no less than Line 10? Yes _____ No _____

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix A, Illustration A to 35 Ill. Adm. Code 727, as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

[After completion, a signed copy of the form must be sent to the Agency. In addition, a signed copy must be sent to every authority who (1) requires a demonstration through a financial test for each of the other obligations in the letter that are assured through a financial test, or (2) accepts a guarantee for an obligation listed in this letter.]

BOARD NOTE: This Appendix A, Illustration A is derived from 40 CFR 267.151(a), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to accommodate its unusual format. The Board intends that any citation to Section 727.240(l) or (l)(1) also include this added Appendix A, Illustration A, as applicable.

Section 727.Appendix A Financial Assurance Forms

Illustration B Letter of Chief Financial Officer: Financial Assurance for Liability Coverage

[The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as follows, except that instructions in brackets are to be deleted or replaced with the relevant information, including this introductory paragraph, as appropriate, and the brackets deleted:]

I am the chief financial officer of [insert the name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for third party liability, as specified in 35 Ill. Adm. Code 727.240. This firm qualifies for the financial test on the basis of having tangible net worth of at least $10 million more than the amount of liability coverage and assets in the United States of at least the amount of liability coverage.

This firm [insert the appropriate of the following statements: "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [insert the month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [insert the date].

[Complete the following section.]

*1. Total Assets $_____

*2. Intangible Assets $_____

*3. Tangible Assets (Line 1-Line 2) $_____

*4. Total Liabilities $_____

5. Tangible Net Worth (Line 3-Line 4) $_____

*6. Assets in the United States $_____

7. Amount of liability coverage $_____

Is Line 5 At least $10 million greater than Line 7? Yes _____ No _____

Is Line 6 at least equal to Line 7? Yes _____ No _____

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix A, Illustration B to 35 Ill. Adm. Code 727, as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

[After completion, a signed copy of the form must be sent to the permitting authority of the state or territory where the facility is (or facilities are) located.]

BOARD NOTE: This Appendix A, Illustration B is derived from 40 CFR 267.151(b), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board moved the corresponding federal provision to accommodate its unusual format. The Board intends that any citation to Section 727.240(l) or (l)(2) also include this added Appendix A, Illustration B, as applicable.

Section 727.Appendix B Correlation of State and Federal Provisions

Table A Correlation of Federal RCRA Standardized Permit Provisions to State Provisions

The following table sets forth the correlation of the federal RCRA Standardized Permit provisions with the State regulations. Where the structure of a State provision exactly parallels the corresponding federal provision from which it was derived, no expanded listing of the subsections appears. Where it was necessary to move or restructure the material from the federal regulations, a detailed listing of the location of each subsection appears.

40 CFR Provision	35 Ill. Adm. Code Provision
Subpart G of Part 124	Subpart G of Part 705
124.200	705.300(a)
124.201	705.300(b)
124.202	705.301(a)
124.203	705.301(b)
124.204	705.302(a)
124.205	705.302(b)
124.206	705.302(c)
124.207	705.303(a)
124.208	705.303(b)
124.209	705.303(c)
124.210	705.303(d)
124.211	705.304(a)
124.212	705.304(b)
124.213	705.304(c)
124.214	705.304(d)

40 CFR Provision	35 Ill. Adm. Code Provision
Subpart A of Part 267	727.100
267.1	727.100(a)
267.2	727.100(b)
267.3	727.100(c)
Subpart B of Part 267	727.110
267.10	727.110(a)
267.11	727.110(b)
267.12	727.110(c)
267.13	727.110(d)
267.14	727.110(e)
267.15	727.110(f)
267.16	727.110(g)
267.17	727.110(h)
267.18	727.110(i)

Subpart C of Part 267	727.130
267.30	727.130(a)
267.31	727.130(b)
267.32	727.130(c)
267.33	727.130(d)
267.34	727.130(e)
267.35	727.130(f)
Subpart D of Part 267	727.150
267.50	727.150(a)
267.51	727.150(b)
267.52	727.150(c)
267.53	727.150(d)
267.54	727.150(e)
267.55	727.150(f)
267.56	727.150(g)
267.57	727.150(h)
267.58	727.150(i)
Subpart E of Part 267	727.170
267.70	727.170(a)
267.71	727.170(b)
267.72	727.170(c)
267.73	727.170(d)
267.74	727.170(e)
267.75	727.170(f)
267.76	727.170(g)
Subpart F of Part 267	727.190
267.90	727.190(a)
267.91 (Reserved)	727.190(b)
267.92 (Reserved)	727.190(c)
267.93 (Reserved)	727.190(d)
267.94 (Reserved)	727.190(e)
267.95 (Reserved)	727.190(f)
267.96 (Reserved)	727.190(g)
267.97 (Reserved)	727.190(h)
267.98 (Reserved)	727.190(i)
267.99 (Reserved)	727.190(j)
267.100 (Reserved)	727.190(k)
267.101	727.190(l)
Subpart G of Part 267	727.210
267.110	727.210(a)
267.111	727.210(b)
267.112	727.210(c)
267.113	727.210(d)
267.114 (Reserved)	727.210(e)

267.115	727.210(f)
267.116	727.210(g)
267.117	727.210(h)
Subpart H of Part 267	727.240
267.140	727.240(a)
267.141	727.240(b)
267.142	727.240(c)
267.143	727.240(d)
267.143(f)(1)	727.240(d)(6)(A)
267.143(f)(1)	727.240(m)
267.143(f)(1)(i)	727.240(m)(1)
267.143(f)(1)(i)(A)	727.240(m)(1)(A)
267.143(f)(1)(i)(B)	727.240(m)(1)(B)
267.143(f)(1)(i)(C)	727.240(m)(1)(C)
267.143(f)(1)(ii)	727.240(m)(2)
267.143(f)(1)(ii)(A)	727.240(m)(2)(A)
267.143(f)(1)(ii)(B)	727.240(m)(2)(B)
267.143(f)(1)(iii)	727.240(m)(3)
267.143(f)(2)	727.240(d)(6)(B)
267.143(f)(2)	727.240(n)
267.143(f)(2)(i)	727.240(n)(1)
267.143(f)(2)(i)(A)	727.240(n)(1)(A)
267.143(f)(2)(i)(A)(*1*)	727.240(n)(1)(A)(i)
267.143(f)(2)(i)(A)(*1*)	727.240(n)(1)(E)
267.143(f)(2)(i)(A)(*1*)(*i*)	727.240(n)(1)(E)(i)
267.143(f)(2)(i)(A)(*1*)(*ii*)	727.240(n)(1)(E)(ii)
267.143(f)(2)(i)(A)(*1*)(*iii*)	727.240(n)(1)(E)(iii)
267.143(f)(2)(i)(A)(*1*)(*iv*)	727.240(n)(1)(E)(iv)
267.143(f)(2)(i)(A)(*1*)(*v*)	727.240(n)(1)(E)(v)
267.143(f)(2)(i)(A)(*1*)(*vi*)	727.240(n)(1)(E)(vi)
267.143(f)(2)(i)(A)(*1*)(*vii*)	727.240(n)(1)(E)(vii)
267.143(f)(2)(i)(A)(*2*)	727.240(n)(1)(A)(ii)
267.143(f)(2)(i)(B)	727.240(n)(1)(B)
267.143(f)(2)(i)(C)	727.240(n)(1)(C)
267.143(f)(2)(i)(D)	727.240(n)(1)(D)
267.143(f)(2)(ii)	727.240(n)(2)
267.143(f)(2)(iii)	727.240(n)(3)
267.143(f)(2)(iv)	727.240(n)(4)
267.143(f)(2)(iv)(A)	727.240(n)(4)(A)
267.143(f)(2)(iv)(B)	727.240(n)(4)(B)
267.143(f)(2)(v)	727.240(n)(5)
267.143(f)(2)(v)(A)	727.240(n)(5)(A)
267.143(f)(2)(v)(B)	727.240(n)(5)(B)
267.143(f)(2)(vi)	727.240(n)(6)

267.143(f)(3)	727.240(d)(6)(C)
267.143(f)(3)	727.240(o)
267.143(f)(3)(i)	727.240(o)(1)
267.143(f)(3)(i)(A)	727.240(o)(1)(A)
267.143(f)(3)(i)(B)	727.240(o)(1)(B)
267.143(f)(3)(ii)	727.240(o)(2)
267.143(f)(3)(iii)	727.240(o)(3)
267.144 (Reserved)	727.240(e)
267.145 (Reserved)	727.240(f)
267.146 (Reserved)	727.240(g)
267.147	727.240(h)
267.147(f)(2)	727.240(h)(6)(B)
267.147(f)(2)	727.240(p)
267.147(f)(2)(i)	727.240(p)(1)
267.147(f)(2)(i)(A)	727.240(p)(1)(A)
267.147(f)(2)(i)(B)	727.240(p)(1)(B)
267.147(f)(2)(i)(C)	727.240(p)(1)(C)
267.147(f)(2)(ii)	727.240(p)(2)
267.147(f)(2)(iii)	727.240(p)(3)
267.147(f)(2)(iv)	727.240(p)(4)
267.147(f)(2)(iv)(A)	727.240(p)(4)(A)
267.147(f)(2)(iv)(B)	727.240(p)(4)(B)
267.147(f)(2)(v)	727.240(p)(5)
267.147(f)(2)(v)(A)	727.240(p)(5)(A)
267.147(f)(2)(v)(B)	727.240(p)(5)(B)
267.147(f)(2)(vi)	727.240(p)(6)
267.147(g)(2)	727.240(h)(7)(B)
267.147(g)(2)	727.240(q)
267.147(g)(2)(i)	727.240(q)(1)
267.147(g)(2)(ii)	727.240(q)(2)
267.147(g)(2)(ii)(A)	727.240(q)(2)(A)
267.147(g)(2)(ii)(B)	727.240(q)(2)(B)
267.148	727.240(i)
267.149 (Reserved)	727.240(j)
267.150	727.240(k)
267.151	727.240(l)
267.151(a)	727.240(l)(1)
267.151(a)	Appendix A, Illustration A
267.151(b)	727.240(l)(2)
267.151(b)	Appendix A, Illustration B
Subpart I of Part 267	727.270
267.170	727.270(a)
267.171	727.270(b)
267.172	727.270(c)

267.173	727.270(d)
267.174	727.270(e)
267.175	727.270(f)
267.176	727.270(g)
267.177	727.270(h)
Subpart J of Part 267	727.290
267.190	727.290(a)
267.191	727.290(b)
267.192	727.290(c)
267.193	727.290(d)
267.194	727.290(e)
267.195	727.290(f)
267.196	727.290(g)
267.197	727.290(h)
267.198	727.290(i)
267.199	727.290(j)
267.200	727.290(k)
267.201	727.290(l)
267.202	727.290(m)
267.203	727.290(n)
267.204	727.290(o)
Subpart K of Part 267 (Reserved)	None
Subpart L of Part 267 (Reserved)	None
Subpart M of Part 267 (Reserved)	None
Subpart N of Part 267 (Reserved)	None
Subpart O of Part 267 (Reserved)	None
Subpart P of Part 267 (Reserved)	None
Subpart Q of Part 267 (Reserved)	None
Subpart R of Part 267 (Reserved)	None
Subpart S of Part 267 (Reserved)	None
Subpart T of Part 267 (Reserved)	None
Subpart U of Part 267 (Reserved)	None
Subpart V of Part 267 (Reserved)	None
Subpart W of Part 267 (Reserved)	None
Subpart X of Part 267 (Reserved)	None
Subpart Y of Part 267 (Reserved)	None
Subpart Z of Part 267 (Reserved)	None
Subpart AA of Part 267 (Reserved)	None
Subpart BB of Part 267 (Reserved)	None
Subpart CC of Part 267 (Reserved)	None
Subpart DD of Part 267	727.900
267.1100	727.900(a)
267.1101	727.900(b)
267.1102	727.900(c)

267.1103	727.900(d)
267.1104	727.900(e)
267.1105	727.900(f)
267.1106	727.900(g)
267.1107	727.900(h)
267.1108	727.900(i)

40 CFR Provision	35 Ill. Adm. Code Provision
270.67	703.238
Subpart J of Part 270	Subpart J of Part 703
270.250	703.350(a)
270.255	703.350(b)
270.260	703.350(c)
270.270	703.351(a)
270.275	703.351(b)
270.280	703.351(c)
270.290	703.352(a)
270.300	703.352(b)
270.305	703.352(c)
270.310	703.352(d)
270.315	703.352(e)
270.320	703.353

BOARD NOTE: The Board added Appendix B, Table A for the convenience of USEPA, the Agency, and the regulated community. It is not directly derived from any federal provision. It is intended not to have any substantive effect on implementation of the RCRA Standardized Permit rules.

Section 727.Appendix B Correlation of State and Federal Provisions

Table B Correlation of State RCRA Standardized Permit Provisions to Federal Provisions

The following table sets forth the correlation of the State RCRA Standardized Permit provisions with the federal regulations. Where the structure of a State provision exactly parallels the corresponding federal provision from which it was derived, no expanded listing of the subsections appears. Where it was necessary to move or restructure the material from the federal regulations, a detailed listing of the location of each subsection appears.

35 Ill. Adm. Code Provision	40 CFR Provision
703.238	270.67
Subpart J of Part 703	Subpart J of Part 270
703.350(a)	270.250
703.350(b)	270.255
703.350(c)	270.260

703.351(a)	270.270
703.351(b)	270.275
703.351(c)	270.280
703.352(a)	270.290
703.352(b)	270.300
703.352(c)	270.305
703.352(d)	270.310
703.352(e)	270.315
703.353	270.320

35 Ill. Adm. Code Provision	40 CFR Provision
Subpart G of Part 705	Subpart G of Part 124
705.300(a)	124.200
705.300(b)	124.201
705.301(a)	124.202
705.301(b)	124.203
705.302(a)	124.204
705.302(b)	124.205
705.302(c)	124.206
705.303(a)	124.207
705.303(b)	124.208
705.303(c)	124.209
705.303(d)	124.210
705.304(a)	124.211
705.304(b)	124.212
705.304(c)	124.213
705.304(d)	124.214

35 Ill. Adm. Code Provision	40 CFR Provision
727.100	Subpart A of Part 267
727.100(a)	267.1
727.100(b)	267.2
727.100(c)	267.3
727.110	Subpart B of Part 267
727.110(a)	267.10
727.110(b)	267.11
727.110(c)	267.12
727.110(d)	267.13
727.110(e)	267.14
727.110(f)	267.15
727.110(g)	267.16
727.110(h)	267.17
727.110(i)	267.18
727.130	Subpart C of Part 267

727.130(a)	267.30
727.130(b)	267.31
727.130(c)	267.32
727.130(d)	267.33
727.130(e)	267.34
727.130(f)	267.35
727.150	Subpart D of Part 267
727.150(a)	267.50
727.150(b)	267.51
727.150(c)	267.52
727.150(d)	267.53
727.150(e)	267.54
727.150(f)	267.55
727.150(g)	267.56
727.150(h)	267.57
727.150(i)	267.58
727.170	Subpart E of Part 267
727.170(a)	267.70
727.170(b)	267.71
727.170(c)	267.72
727.170(d)	267.73
727.170(e)	267.74
727.170(f)	267.75
727.170(g)	267.76
727.190	Subpart F of Part 267
727.190(a)	267.90
727.190(b)	267.91 (Reserved)
727.190(c)	267.92 (Reserved)
727.190(d)	267.93 (Reserved)
727.190(e)	267.94 (Reserved)
727.190(f)	267.95 (Reserved)
727.190(g)	267.96 (Reserved)
727.190(h)	267.97 (Reserved)
727.190(i)	267.98 (Reserved)
727.190(j)	267.99 (Reserved)
727.190(k)	267.100 (Reserved)
727.190(l)	267.101
727.210	Subpart G of Part 267
727.210(a)	267.110
727.210(b)	267.111
727.210(c)	267.112
727.210(d)	267.113
727.210(e)	267.114 (Reserved)
727.210(f)	267.115

727.210(g)	267.116
727.210(h)	267.117
727.240	Subpart H of Part 267
727.240(a)	267.140
727.240(b)	267.141
727.240(c)	267.142
727.240(d)	267.143
727.240(d)(6)(A)	267.143(f)(1)
727.240(d)(6)(B)	267.143(f)(2)
727.240(e)	267.144 (Reserved)
727.240(f)	267.145 (Reserved)
727.240(g)	267.146 (Reserved)
727.240(h)	267.147
727.240(h)(6)(B)	267.147(f)(2)
727.240(h)(7)(B)	267.147(g)(2)
727.240(i)	267.148
727.240(j)	267.149 (Reserved)
727.240(k)	267.150
727.240(l)	267.151
727.240(l)(1)	267.151(a)
727.240(l)(2)	267.151(b)
727.240(m)	267.143(f)(1)
727.240(m)(1)	267.143(f)(1)(i)
727.240(m)(1)(A)	267.143(f)(1)(i)(A)
727.240(m)(1)(B)	267.143(f)(1)(i)(B)
727.240(m)(1)(C)	267.143(f)(1)(i)(C)
727.240(m)(2)	267.143(f)(1)(ii)
727.240(m)(2)(A)	267.143(f)(1)(ii)(A)
727.240(m)(2)(B)	267.143(f)(1)(ii)(B)
727.240(m)(3)	267.143(f)(1)(iii)
727.240(n)	267.143(f)(2)
727.240(n)(1)	267.143(f)(2)(i)
727.240(n)(1)(A)	267.143(f)(2)(i)(A)
727.240(n)(1)(A)(i)	267.143(f)(2)(i)(A)(*1*)
727.240(n)(1)(A)(ii)	267.143(f)(2)(i)(A)(*2*)
727.240(n)(1)(B)	267.143(f)(2)(i)(B)
727.240(n)(1)(C)	267.143(f)(2)(i)(C)
727.240(n)(1)(D)	267.143(f)(2)(i)(D)
727.240(n)(1)(E)	267.143(f)(2)(i)(A)(*1*)
727.240(n)(1)(E)(i)	267.143(f)(2)(i)(A)(*1*)(*i*)
727.240(n)(1)(E)(ii)	267.143(f)(2)(i)(A)(*1*)(*ii*)
727.240(n)(1)(E)(iii)	267.143(f)(2)(i)(A)(*1*)(*iii*)
727.240(n)(1)(E)(iv)	267.143(f)(2)(i)(A)(*1*)(*iv*)
727.240(n)(1)(E)(v)	267.143(f)(2)(i)(A)(*1*)(*v*)

727.240(n)(1)(E)(vi)	267.143(f)(2)(i)(A)(*1*)(*vi*)
727.240(n)(2)	267.143(f)(2)(ii)
727.240(n)(3)	267.143(f)(2)(iii)
727.240(n)(4)	267.143(f)(2)(iv)
727.240(n)(4)(A)	267.143(f)(2)(iv)(A)
727.240(n)(4)(B)	267.143(f)(2)(iv)(B)
727.240(n)(5)	267.143(f)(2)(v)
727.240(n)(5)(A)	267.143(f)(2)(v)(A)
727.240(n)(5)(B)	267.143(f)(2)(v)(B)
727.240(n)(6)	267.143(f)(2)(vi)
727.240(o)	267.143(f)(3)
727.240(o)(1)	267.143(f)(3)(i)
727.240(o)(1)(A)	267.143(f)(3)(i)(A)
727.240(o)(1)(B)	267.143(f)(3)(i)(B)
727.240(o)(2)	267.143(f)(3)(ii)
727.240(o)(3)	267.143(f)(3)(iii)
727.240(p)	267.147(f)(2)
727.240(p)(1)	267.147(f)(2)(i)
727.240(p)(1)(A)	267.147(f)(2)(i)(A)
727.240(p)(1)(B)	267.147(f)(2)(i)(B)
727.240(p)(1)(C)	267.147(f)(2)(i)(C)
727.240(p)(2)	267.147(f)(2)(ii)
727.240(p)(3)	267.147(f)(2)(iii)
727.240(p)(4)	267.147(f)(2)(iv)
727.240(p)(4)(A)	267.147(f)(2)(iv)(A)
727.240(p)(4)(B)	267.147(f)(2)(iv)(B)
727.240(p)(5)	267.147(f)(2)(v)
727.240(p)(5)(A)	267.147(f)(2)(v)(A)
727.240(p)(5)(B)	267.147(f)(2)(v)(B)
727.240(p)(6)	267.147(f)(2)(vi)
727.240(q)	267.147(g)(2)
727.240(q)(1)	267.147(g)(2)(i)
727.240(q)(2)	267.147(g)(2)(ii)
727.240(q)(2)(A)	267.147(g)(2)(ii)(A)
727.240(q)(2)(B)	267.147(g)(2)(ii)(B)
727.270	Subpart I of Part 267
727.270(a)	267.170
727.270(b)	267.171
727.270(c)	267.172
727.270(d)	267.173
727.270(e)	267.174
727.270(f)	267.175
727.270(g)	267.176
727.270(h)	267.177

727.290	Subpart J of Part 267
727.290(a)	267.190
727.290(b)	267.191
727.290(c)	267.192
727.290(d)	267.193
727.290(e)	267.194
727.290(f)	267.195
727.290(g)	267.196
727.290(h)	267.197
727.290(i)	267.198
727.290(j)	267.199
727.290(k)	267.200
727.290(l)	267.201
727.290(m)	267.202
727.290(n)	267.203
727.290(o)	267.204
727.900	Subpart DD of Part 267
727.900(a)	267.1100
727.900(b)	267.1101
727.900(c)	267.1102
727.900(d)	267.1103
727.900(e)	267.1104
727.900(f)	267.1105
727.900(g)	267.1106
727.900(h)	267.1107
727.900(i)	267.1108
Appendix A, Illustration A	267.151(a)
Appendix A, Illustration B	267.151(b)

BOARD NOTE: The Board added Appendix B, Table B for the convenience of USEPA, the Agency, and the regulated community. It is not directly derived from any federal provision. It is intended not to have any substantive effect on implementation of the RCRA Standardized Permit rules.

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

PART 728
LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL

Section
728.101 Purpose, Scope, and Applicability

SUBPART B: SCHEDULE FOR LAND DISPOSAL PROHIBITION AND ESTABLISHMENT OF TREATMENT STANDARDS

Section

SUBPART C: PROHIBITION ON LAND DISPOSAL

Section

SUBPART D: TREATMENT STANDARDS

Section

SUBPART E: PROHIBITIONS ON STORAGE

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

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18

Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 6049, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3800, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope, and Applicability

a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.

c) Restricted wastes may continue to be land disposed as follows:

1) Where a person has been granted an extension to the effective date of a prohibition ~~under~~ pursuant to Subpart C of this Part or pursuant to Section 728.105, with respect to those wastes covered by the extension;

2) Where a person has been granted an exemption from a prohibition pursuant to a petition ~~under~~ pursuant to Section 728.106, with respect to those wastes and units covered by the petition;

3) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited ~~under~~ pursuant to this Part is not prohibited if the following is true of the waste:

A) The waste is disposed into a ~~nonhazardous~~ non-hazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a); and

B) The waste does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

4) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited ~~under~~ pursuant to this Part is not prohibited if the waste meets any of the following criteria, unless the waste is subject to a specified method of treatment other than DEACT in Section 728.140 or is D003 reactive cyanide:

A) Any of the following is true of either treatment or management of the waste:

i) The waste is managed in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued ~~under~~ pursuant to 35 Ill. Adm. Code 309;

ii) The waste is treated for purposes of the pretreatment requirements of 35 Ill. Adm. Code 307 and 310; or

iii) The waste is managed in a zero discharge system engaged in Clean Water Act (CWA)-equivalent treatment, as defined in Section 728.137(a); and

B) The waste no longer exhibits a prohibited characteristic of hazardous waste at the point of land disposal (i.e., placement in a surface impoundment).

d) This Part does not affect the availability of a waiver ~~under~~ pursuant to Section 121(d)(4) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).

e) The following hazardous wastes are not subject to any provision of this Part:

1) Waste generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;

2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;

3) Waste identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated a land disposal prohibition or treatment standard;

4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory waste that does not exceed one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million (ppm) in the headworks of the facility's wastewater treatment or pretreatment facility; or

5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation ~~under~~ pursuant to the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.

f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 733.

1) Batteries, as described in 35 Ill. Adm. Code 733.102;

2) Pesticides, as described in 35 Ill. Adm. Code 733.103;

3) ~~Thermostats,~~ Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and

4) Lamps, as described in 35 Ill. Adm. Code 733.105~~; and~~.

~~5) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.~~

~~BOARD NOTE: Subsection (f)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code 729. The Environmental Protection Agency (Agency) must not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

h) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (h) is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 728.106 Petitions to Allow Land Disposal of a Waste Prohibited ~~under~~ Pursuant to Subpart C

a) Any person seeking an exemption from a prohibition ~~under~~ pursuant to Subpart C for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the Board demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components:

1) An identification of the specific waste and the specific unit for which the demonstration will be made;

2) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;

3) A comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality;

4) A monitoring plan that detects migration at the earliest practical time;

5) Sufficient information to assure the Agency that the owner or operator of a land disposal unit receiving restricted wastes will comply with other applicable federal, state, and local laws;

6) Whether the facility is in interim status, or, if a RCRA permit has been issued, the term of the permit.

b) The demonstration referred to in subsection (a) of this Section must meet the following criteria:

1) All waste and environmental sampling, test and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

2) All sampling, testing and estimation techniques for chemical and physical properties of the waste and all environmental parameters must conform with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011, each incorporated by reference in 35 Ill. Adm. Code 720.111.

3) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

4) A quality assurance and quality control plan that addresses all aspects of the demonstration and conforms with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, and with "Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011; and

5) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts, or other natural phenomena.

c) Each petition referred to in subsection (a) of this Section must include the following:

1) A monitoring plan that describes the monitoring program installed at or around the unit to verify continued compliance with the conditions of the adjusted standard. This monitoring plan must provide information on the monitoring of the unit or the environment around the unit. The following specific information must be included in the plan:

A) The media monitored in the cases where monitoring of the environment around the unit is required;

B) The type of monitoring conducted at the unit, in the cases where monitoring of the unit is required;

C) The location of the monitoring stations;

D) The monitoring interval (frequency of monitoring at each station);

E) The specific hazardous constituents to be monitored;

F) The implementation schedule for the monitoring program;

G) The equipment used at the monitoring stations;

H) The sampling and analytical techniques employed; and

I) The data recording and reporting procedures.

2) Where applicable, the monitoring program described in subsection (c)(1) of this Section must be in place for a period of time specified by the Board, as part of its approval of the petition, prior to receipt of prohibited waste at the unit.

3) The monitoring data collected according to the monitoring plan specified ~~under~~ pursuant to subsection (c)(1) of this Section must be sent to the Agency according to a format and schedule specified and approved in the monitoring plan.

4) A copy of the monitoring data collected under the monitoring plan specified ~~under~~ pursuant to subsection (c)(1) of this Section must be kept on-site at the facility in the operating record.

5) The monitoring program specified ~~under~~ pursuant to subsection (c)(1) of this Section must meet the following criteria:

A) All sampling, testing, and analytical data must be approved by the Board and must provide data that is accurate and reproducible;

B) All estimation and monitoring techniques must be approved by the Board; and

C) A quality assurance and quality control plan addressing all aspects of the monitoring program must be provided to and approved by the Board.

d) Each petition must be submitted to the Board as provided in Subpart D of 35 Ill. Adm. Code 104.

e) After a petition has been approved, the owner or operator must report any changes in conditions at the unit or the environment around the unit that significantly depart from the conditions described in the petition and affect the potential for migration of hazardous constituents from the units as follows:

1) If the owner or operator plans to make changes to the unit design, construction, or operation, the owner or operator must do the following at least 90 days prior to making the change:

A) File a petition for modification of or a new petition to amend an adjusted standard with the Board reflecting the changes; or

B) Demonstrate to the Agency that the change can be made consistent with the conditions of the existing adjusted standard.

2) If the owner or operator discovers that a condition at the site that was modeled or predicted in the petition does not occur as predicted, this change must be reported, in writing, to the Agency within 10 days after discovering the change. The Agency must determine whether the reported change from the terms of the petition requires further action, which may include termination of waste acceptance, a petition for modification of or a new petition for an adjusted standard.

f) If there is migration of hazardous constituents from the unit, as determined by the owner or operator, the owner or operator must do the following:

1) It must immediately suspend receipt of prohibited waste at the unit, and

2) It must notify the Agency, in writing, within 10 days after the determination that a release has occurred.

3) Following receipt of the notification, the Agency must, within 60 days after receiving notification do the following:

A) It must determine whether the owner or operator can continue to receive prohibited waste in the unit under the conditions of the adjusted standard.

B) If modification or vacation of the adjusted standard is necessary, it must file a motion to modify or vacate the adjusted standard with the Board.

C) It must determine whether further examination of any migration is required ~~under~~ pursuant to the applicable provisions of 35 Ill. Adm. Code 724 or 725.

g) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached

documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information. I believe that submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

h) After receiving a petition, the Board may request any additional information that may be required to evaluate the demonstration.

i) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

j) The Board will give public notice and provide an opportunity for public comment, as provided in Subpart D of 35 Ill. Adm. Code 104. Notice of a final decision on a petition will be published in the Environmental Register.

k) The term of a petition granted ~~under~~ pursuant to this Section will be no longer than the term of the RCRA permit if the disposal unit is operating ~~under~~ pursuant to a RCRA permit, or up to a maximum of 10 years from the date of approval provided ~~under~~ pursuant to subsection (g) of this Section if the unit is operating under interim status. In either case, the term of the granted petition expires upon the termination or denial of a RCRA permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

l) Prior to the Board's decision, the applicant must comply with all restrictions on land disposal ~~under~~ pursuant to this Part once the effective date for the waste has been reached.

m) The petition granted by the Board does not relieve the petitioner of responsibilities in the management of hazardous waste ~~under~~ pursuant to 35 Ill. Adm. Code 702, 703, and 720 through ~~726~~, 728, and 738.

n) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm are not eligible for an adjusted standard ~~under~~ pursuant to this Section.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: TREATMENT STANDARDS

Section 728.142 Treatment Standards Expressed as Specified Technologies

a) The following wastes listed in Table T of this Part, "Treatment Standards for Hazardous Wastes," for which standards are expressed as a treatment method rather than as a concentration level, must be treated using the technology or

technologies specified in Table C of this Part.

1) Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70 (Incineration), incorporated by reference in 35 Ill. Adm. Code 720.111(b), or burned in high efficiency boilers in accordance with the technical requirements of 40 CFR 761.60 (Disposal Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b). Liquid hazardous wastes containing PCBs at concentrations greater than or equal to 500 ppm must be incinerated in accordance with the technical requirements of 40 CFR 761.70. Thermal treatment in accordance with this Section must be in compliance with applicable regulations in 35 Ill. Adm. Code 724, 725, and 726.

2) Nonliquid hazardous wastes containing halogenated organic compounds (HOCs) in total concentrations greater than or equal to 1,000 mg/kg and liquid HOC-containing wastes that are prohibited ~~under~~ pursuant to Section 728.132(e)(1) must be incinerated in accordance with the requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725. These treatment standards do not apply where the waste is subject to a treatment standard codified in Subpart C of this Part for a specific HOC (such as a hazardous waste chlorinated solvent for which a treatment standard is established ~~under~~ pursuant to Section 728.141(a)).

3) A mixture consisting of wastewater, the discharge of which is subject to regulation ~~under~~ pursuant to 35 Ill. Adm. Code 309 or 310, and de minimis losses of materials from manufacturing operations in which these materials are used as raw materials or are produced as products in the manufacturing process that meet the criteria of the D001 ignitable liquids containing greater than 10 percent total organic constituents (TOC) subcategory are subject to the DEACT treatment standard described in Table C of this Part. For purposes of this subsection (a)(3), "de minimis losses" include the following:

   A) Those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, or leaks from pipes, valves, or other devices used to transfer materials);

   B) Minor leaks from process equipment, storage tanks, or containers;

   C) Leaks from well-maintained pump packings and seals;

   D) Sample purgings; and

E) Relief device discharges.

b) Any person may submit an application to the Agency demonstrating that an alternative treatment method can achieve a level of performance equivalent to that achievable by methods specified in subsections (a), (c), and (d) of this Section for wastes or specified in Table F of this Part for hazardous debris. The applicant must submit information demonstrating that the applicant's treatment method is in compliance with federal and state requirements, including this Part; 35 Ill. Adm. Code 709, 724, 725, 726, and 729; and Sections 22.6 and 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 and 39(h)] and that the treatment method ~~is protective of~~ adequately protects human health and the environment. On the basis of such information and any other available information, the Agency must approve the use of the alternative treatment method if the Agency finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in subsections (a), (c), and (d) of this Section and in Table F of this Part, for hazardous debris. Any approval must be stated in writing and may contain such provisions and conditions as the Agency determines to be appropriate. The person to whom such approval is issued must comply with all limitations contained in such determination.

c) As an alternative to the otherwise applicable treatment standards of Subpart D of this Part, lab packs are eligible for land disposal provided the following requirements are met:

1) The lab packs comply with the applicable provisions of 35 Ill. Adm. Code 724.416 and 725.416;

BOARD NOTE: 35 Ill. Adm. Code 729.301 and 729.312 include additional restrictions on the use of lab packs.

2) The lab pack does not contain any of the wastes listed in Appendix D of this Part;

3) The lab packs are incinerated in accordance with the requirements of Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725; and

4) Any incinerator residues from lab packs containing D004, D005, D006, D007, D008, D010, and D011 are treated in compliance with the applicable treatment standards specified for such wastes in Subpart D of this Part.

d) Radioactive hazardous mixed wastes are subject to the treatment standards in Section 728.140 and Table T of this Part. Where treatment standards are specified for radioactive mixed wastes in Table T of this Part, "Table of Treatment Standards," those treatment standards will govern. Where there is no specific treatment standard for radioactive mixed waste, the treatment standard for the hazardous waste (as designated by USEPA hazardous waste code) applies. Hazardous debris containing

radioactive waste is subject to the treatment standards specified in Section 728.145.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 728.Table F Alternative Treatment Standards For Hazardous Debris

a) Hazardous debris must be treated by either the standards indicated in this Table F or by the waste-specific treatment standards for the waste contaminating the debris. The treatment standards must be met for each type of debris contained in a mixture of debris types, unless the debris is converted into treatment residue as a result of the treatment process. Debris treatment residuals are subject to the waste-specific treatment standards for the waste contaminating the debris.

b) Definitions. For the purposes of this Table F, the following terms are defined as follows:

"Clean debris surface" means the surface, when viewed without magnification, must be free of all visible contaminated soil and hazardous waste except that residual staining from soil and waste consisting of light shadows, slight streaks, or minor discolorations, and soil and waste in cracks, crevices, and pits may be present provided that such staining and waste and soil in cracks, crevices, and pits must be limited to no more than five percent of each square inch of surface area.

"Contaminant restriction" means that the technology is not BDAT for that contaminant. If debris containing a restricted contaminant is treated by the technology, the contaminant must be subsequently treated by a technology for which it is not restricted in order to be land disposed (and excluded from Subtitle C regulation).

"Dioxin-listed wastes" means wastes having any of USEPA hazardous waste numbers FO20, FO21, FO22, FO23, FO26, or FO27.

c) Notes. In this Table F, the following text is to be read in conjunction with the tabulated text where the appropriate notations appear:

[1] Acids, solvents, and chemical reagents may react with some debris and contaminants to form hazardous compounds. For example, acid washing of cyanide-contaminated debris could result in the formation of hydrogen cyanide. Some acids may also react violently with some debris and contaminants, depending on the concentration of the acid and the type of debris and contaminants. Debris treaters should refer to the safety precautions specified in Material Safety Data Sheets for various acids to avoid applying an incompatible acid to a particular debris/contaminant combination. For example, concentrated sulfuric acid may react violently with certain organic compounds, such as acrylonitrile.

[2] If reducing the particle size of debris to meet the treatment standards results in material that no longer meets the 60 mm minimum particle size limit for debris, such material is subject to the waste-specific treatment standards for the waste contaminating the material, unless the debris has been cleaned and separated from contaminated soil and waste prior to size reduction. At a minimum, simple physical or mechanical means must be used to provide such cleaning and separation of nondebris materials to ensure that the debris surface is free of caked soil, waste, or other nondebris material.

[3] Thermal desorption is distinguished from thermal destruction in that the primary purpose of thermal desorption is to volatilize contaminants and to remove them from the treatment chamber for subsequent destruction or other treatment.

[4] The demonstration of "equivalent technology" ~~under~~ pursuant to Section 728.142(b) must document that the technology treats contaminants subject to treatment to a level equivalent to that required by the performance and design and operating standards for other technologies in this table such that residual levels of hazardous contaminants will not pose a hazard to human health and the environment absent management controls.

5 Any soil, waste, and other nondebris material that remains on the debris surface (or remains mixed with the debris) after treatment is considered a treatment residual that must be separated from the debris using, at a minimum, simple physical or mechanical means. Examples of simple physical or mechanical means are vibratory or trommel screening or water washing. The debris surface need not be cleaned to a "clean debris surface" as defined in subsection (b) of this Section when separating treated debris from residue; rather, the surface must be free of caked soil, waste, or other nondebris material. Treatment residuals are subject to the waste-specific treatment standards for the waste contaminating the debris.

Technology description	Performance or design and operating standard	Contaminant restrictions
A. Extraction Technologies:		
1. Physical Extraction		
a. Abrasive Blasting: Removal of contaminated debris surface layers using water or air pressure to propel a solid media (e.g., steel shot, aluminum oxide grit, plastic beads).	Glass, Metal, Plastic, Rubber: Treatment to a clean debris surface. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Removal of at least 0.6 cm of	All Debris: None.

	the surface layer; treatment to a clean debris surface.	
b. Scarification, Grinding, and Planing: Process utilizing striking piston heads, saws, or rotating grinding wheels such that contaminated debris surface layers are removed.	Same as above	Same as above
c. Spalling: Drilling or chipping holes at appropriate locations and depth in the contaminated debris surface and applying a tool that exerts a force on the sides of those holes such that the surface layer is removed. The surface layer removed remains hazardous debris subject to the debris treatment standards.	Same as above	Same as above
d. Vibratory Finishing: Process utilizing scrubbing media, flushing fluid, and oscillating energy such that hazardous contaminants or contaminated debris surface layers are removed.[1]	Same as above	Same as above
e. High Pressure Steam and Water Sprays: Application of water or steam sprays of sufficient temperature, pressure, residence time, agitation, surfactants, and detergents to remove hazardous contaminants from debris surfaces or to remove contaminated debris surface layers	Same as above	Same as above.
2. Chemical Extraction		
a. Water Washing and Spraying: Application of water sprays or water baths of sufficient	All Debris: Treatment to a clean debris surface; Brick, Cloth, Concrete, Paper,	Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Contaminant must be soluble to

temperature, pressure, residence time, agitation, surfactants, acids, bases, and detergents to remove hazardous contaminants from debris surfaces and surface pores or to remove contaminated debris surface layers.	Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e., thickness limit,[2] except that this thickness limit may be waived under an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b);[4] debris surfaces must be in contact with water solution for at least 15 minutes	at least five percent by weight in water solution or five percent by weight in emulsion; if debris is contaminated with a dioxin-listed waste,[3] an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b) must be obtained.[4]
b. Liquid Phase Solvent Extraction: Removal of hazardous contaminants from debris surfaces and surface pores by applying a nonaqueous liquid or liquid solution that causes the hazardous contaminants to enter the liquid phase and be flushed away from the debris along with the liquid or liquid solution while using appropriate agitation, temperature, and residence time.[1]	Same as above	Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Same as above, except that contaminant must be soluble to at least five percent by weight in the solvent.
c. Vapor Phase Solvent Extraction: Application of an organic vapor using sufficient agitation, residence time, and temperature to cause hazardous contaminants on contaminated debris surfaces and surface pores to enter the vapor phase and be flushed away with the organic vapor.[1]	Same as above, except that brick, cloth, concrete, paper, pavement, rock and wood surfaces must be in contact with the organic vapor for at least 60 minutes.	Same as above.
3. Thermal Extraction		
a. High Temperature Metals Recovery: Application of sufficient heat, residence time, mixing, fluxing agents, or carbon in a smelting, melting, or refining furnace to separate	For refining furnaces, treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residuals must meet the	Debris contaminated with a dioxin-listed waste:[2] Obtain an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b).[4]

metals from debris.	waste-specific treatment standards for organic compounds in the waste contaminating the debris.	
b. Thermal Desorption: Heating in an enclosed chamber under either oxidizing or nonoxidizing atmospheres at sufficient temperature and residence time to vaporize hazardous contaminants from contaminated surfaces and surface pores and to remove the contaminants from the heating chamber in a gaseous exhaust gas.[3]	All Debris: Obtain an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 10 cm (4 inches) in one dimension (i.e., thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	All Debris: Metals other than mercury.
B. Destruction Technologies:		
1. Biological Destruction (Biodegradation): Removal of hazardous contaminants from debris surfaces and surface pores in an aqueous solution and biodegration of organic or nonmetallic inorganic compounds (i.e., inorganics that contain phosphorus, nitrogen, or sulfur) in units operated under either aerobic or anaerobic conditions.	All Debris: Obtain an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e.,	All Debris: Metal contaminants.

	thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	
2. Chemical Destruction		
a. Chemical Oxidation: Chemical or electrolytic oxidation utilizing the following oxidation reagents (or waste reagents) or combination of reagents: (1) hypochlorite (e.g., bleach); (2) chlorine; (3) chlorine dioxide; (4) ozone or UV (ultraviolet light) assisted ozone; (5) peroxides; (6) persulfates; (7) perchlorates; (8) permanganates; or (9) other oxidizing reagents of equivalent destruction efficiency.[1] Chemical oxidation specifically includes what is referred to as alkaline chlorination.	All Debris: Obtain an "Equivalent Technology" approval ~~under~~ pursuant to 35 Ill. Adm. Code.142(b);[4] treated debris must be separated from treatment residuals using simple physical or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris. Brick, Cloth, Concrete, Paper, Pavement, Rock, Wood: Debris must be no more than 1.2 cm (½ inch) in one dimension (i.e., thickness limit),[2] except that this thickness limit may be waived under the "Equivalent Technology" approval	All Debris: Metal contaminants.
b. Chemical Reduction: Chemical reaction utilizing the following reducing reagents (or waste reagents) or combination of reagents: (1) sulfur dioxide; (2) sodium, potassium, or alkali salts of sulfites, bisulfites, and metabisulfites, and polyethylene glycols (e.g., NaPEG and KPEG); (3) sodium hydrosulfide; (4) ferrous salts; or (5) other reducing reagents of equivalent efficiency.[1]	Same as above	Same as above.
3. Thermal Destruction: Treatment in an incinerator operating in accordance with	Treated debris must be separated from treatment residuals using simple physical	Brick, Concrete, Glass, Metal, Pavement, Rock, Metal: Metals other than mercury, except that

Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725; a boiler or industrial furnace operating in accordance with Subpart H of 35 Ill. Adm. Code 726, or other thermal treatment unit operated in accordance with Subpart X of 35 Ill. Adm. Code 724, or Subpart P of 35 Ill. Adm. Code 725, but excluding for purposes of these debris treatment standards Thermal Desorption units.	or mechanical means,[5] and, prior to further treatment, such residue must meet the waste-specific treatment standards for organic compounds in the waste contaminating the debris.	there are no metal restrictions for vitrification. Debris contaminated with a dioxin-listed waste.[3] Obtain an "Equivalent Technology" approval ~~under~~ pursuant to Section 728.142(b),[4] except that this requirement does not apply to vitrification.
C. Immobilization Technologies:		
1. Macroencapsulation: Application of surface coating materials such as polymeric organics (e.g., resins and plastics) or use of a jacket of inert inorganic materials to substantially reduce surface exposure to potential leaching media.	Encapsulating material must completely encapsulate debris and be resistant to degradation by the debris and its contaminants and materials into which it may come into contact after placement (leachate, other waste, microbes).	None.
2. Microencapsulation: Stabilization of the debris with the following reagents (or waste reagents) such that the leachability of the hazardous contaminants is reduced: (1) Portland cement; or (2) lime/ pozzolans (e.g., fly ash and cement kiln dust). Reagents (e.g., iron salts, silicates, and clays) may be added to enhance the set/cure time or compressive strength, or to reduce the leachability of the hazardous constituents.[2]	Leachability of the hazardous contaminants must be reduced.	None.
3. Sealing: Application of an appropriate material that	Sealing must avoid exposure of the debris surface to potential	None.

adheres tightly to the debris surface to avoid exposure of the surface to potential leaching media. When necessary to effectively seal the surface, sealing entails pretreatment of the debris surface to remove foreign matter and to clean and roughen the surface. Sealing materials include epoxy, silicone, and urethane compounds, but paint may not be used as a sealant	leaching media and sealant must be resistant to degradation by the debris and its contaminants and materials into which it may come into contact after placement (leachate, other waste, microbes).

BOARD NOTE: Derived from Table 1 to 40 CFR 268.45 (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 730
UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

SUBPART A: GENERAL

Section
730.101 Applicability, Scope, and Effective Date
730.102 Laws Authorizing Regulations
730.103 Definitions
730.104 Criteria for Exempted Aquifers
730.105 Classification of Injection Wells
730.106 Area of Review
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730.109 Criteria for Establishing Permitting Priorities
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SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section
730.111 Applicability
730.112 Construction Requirements
730.113 Operating, Monitoring, and Reporting Requirements

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

SOURCE: Adopted in R81-32~~, 47 PCB 93,~~ at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19~~, 53 PCB 131~~ at 7 Ill. Reg. 14426, effective March 3, 1984; recodified at 10 Ill. Reg. 14174; amended in R89-2 at 14 Ill. Reg. 3130, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11959, effective July 9, 1990; amended in R93-6 at 17 Ill. Reg. 15646, effective

September 14, 1993; amended in R94-5 at 18 Ill. Reg. 18391, effective December 20, 1994; amended in R95-4 at 19 Ill. Reg. 10047, effective June 27, 1995; amended in R00-11/R01-1 at 24 Ill. Reg. 18680, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 730.101 Applicability, Scope, and Effective Date

a) This Part sets forth technical criteria and standards for the Underground Injection Control (UIC) Program. This Part ~~should~~ must be read in conjunction with 35 Ill. Adm. Code 702, 704, and 705, which also apply to the UIC program. 35 Ill. Adm. Code 702 and 704 prescribe the regulatory requirements for the UIC permit program. 35 Ill. Adm. Code 704 further outlines hazardous waste management requirements and sets forth the financial assurance requirements applicable to Class I hazardous waste injection wells and requirements applicable to certain types of Class V injection wells. 35 Ill. Adm. Code 705 describes the procedures the ~~Illinois Environmental Protection~~ Agency ~~(Agency) will~~ must use for issuing UIC permits.

b) On and after February 1, 1984, any underground injection ~~which~~ that is not authorized by rule or by permit is unlawful.

c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3 and 145.11(a)(33), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.102 Laws Authorizing Regulations

The laws authorizing these regulations and all other UIC program regulations are included in the Environmental Protection Act ~~(Ill. Rev. Stat. 1979, ch. 111 1/2, par. 1001)~~ [415 ILCS 5], as amended.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.103 Definitions

The following definitions apply to the underground injection control program.

"Abandoned well" means a well whose use has been permanently discontinued or that is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, 42 USC 6901).

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit, including any additions, revisions, or modifications to the forms. For RCRA, application also includes the information required by the Agency ~~under~~ pursuant to 35 Ill. Adm. Code 703.182-703.188 and 703.200 (contents of Part B of the RCRA application).

"Aquifer" means a geologic formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" means the area surrounding an "injection well" described according to the criteria set forth in Section 730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter ~~of a~~ mile) or a number calculated according to the criteria set forth in Section 730.106.

"Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water, gas, or other fluid from entering or leaving the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

"Cementing" means the operation whereby a cement slurry is pumped into a drilled hole or forced behind the casing.

"Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confining zone" means a geologic formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

"Contaminant" means any physical, chemical, biological, or radiological substance

or matter in water.

"Conventional mine" means an open pit or underground excavation for the production of minerals.

"Date of approval by USEPA of the Illinois UIC program" means February 1, 1984.

"Director" means the Director of the Illinois Environmental Protection Agency or the Administrator's designee.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

"Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

"Effective date of the UIC program" means February 1, 1984.

"Environmental Protection Act" means the Environmental Protection Act [415 ILCS 5].

"EPA" or "USEPA" means the United States Environmental Protection Agency.

"Exempted aquifer" means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures of 35 Ill. Adm. Code 704.123, 704.104, and 702.105.

"Existing injection well" means an "injection well" other than a "new injection well."

"Experimental technology" means a technology that has not been proven feasible under the conditions in which it is being tested.

"Facility or activity" means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the "State" RCRA or UIC program.

"Fault" means a surface or zone of rock fracture along which there has been displacement.

"Flow rate" means the volume per unit time of the flow of a gas or other fluid substance that emerges from an orifice, pump or turbine or which passes along a conduit or channel.

"Fluid" means material or substance that flows or moves, whether in a semisolid,

liquid sludge, gas, or any other form or state.

"Formation" means a body of rock characterized by a degree of lithologic homogeneity that is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.

"Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" or "HWM facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

"HWM facility" means Hazardous waste management facility.

"Illinois" means the State of Illinois.

"Improved sinkhole" means a naturally occurring karst depression or other natural crevice that is found in volcanic terrain and other geologic settings that have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

"Injection well" means a well into which fluids are being injected.

"Injection zone" means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under RCRA, UIC, or the Environmental Protection Act.

"Packer" means a device lowered into a well that can be expanded to produce a fluid-tight seal.

"Permit" means an authorization, license, or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status~~,~~ (Subpart C of 35 Ill. Adm. Code 703~~, Subpart C~~), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

"Plugging" means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration, and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations that are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

"Point of injection," for a Class V injection well, means the last accessible sampling point prior to waste fluids being released into the subsurface environment through the well. For example, the point of injection of a Class V septic system might be the distribution box--the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

"Pressure" means the total load or force per unit area acting on a surface.

"Project" means a group of wells in a single operation.

"Radioactive Waste" means any waste that contains radioactive material in concentrations ~~which~~ that exceed those listed in Table II, column 2 in appendix B to 10 CFR 20~~, Appendix B, Table II, Column 2~~ (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (~~P.L. 94-580, as amended by P.L. 95-609,~~ 42 USC 6901 et seq.).

"Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

"SDWA" means the Safe Drinking Water Act (~~P.L. 95-523, as amended by P.L. 95-190,~~ 42 USC 300(f) et seq.).

"Septic system" means a well that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sole or principal source aquifer" means an aquifer that has been designated by the Administrator pursuant to Section 1424(a) or (e) of SDWA (42 USC 300h-3(a) or (e)).

"State" means the State of Illinois.

"Stratum" (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

"Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

"Surface casing" means the first string of well casing to be installed in the well.

"Total dissolved solids" or "TDS" means the total dissolved (filterable) solids, as determined by use of the method specified in 40 CFR ~~136~~ 136.3 (Identification of Test Procedures; the method for filterable residue), incorporated by reference in 35 Ill. Adm. Code 720.111.

"UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act (42 USC 300h through 300h-8), including the approved Illinois program.

"Underground injection" means a "well injection."

"Underground source of drinking water" or "USDW" means an aquifer or its portion of which the following is true:

It supplies any public water system; or

It contains a sufficient quantity of groundwater to supply a public water system; and

It currently supplies drinking water for human consumption; or

It contains less than 10,000 ~~mg/1~~ mg/ℓ total dissolved solids; and

It is not an exempted "aquifer."~~.~~

"USDW" means underground source of drinking water.

"Well" means a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; a dug hole whose depth is greater than the largest surface dimension; an improved sinkhole; or a subsurface fluid distribution system.

"Well injection" means the subsurface emplacement of fluids through a well.

"Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing, and hydraulic fracturing.

BOARD NOTE: Derived from 40 CFR 146.3 ~~(1999), as amended at 64 Fed. Reg. 68573 (December 7, 1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.104 Criteria for Exempted Aquifers

An aquifer or a portion thereof that meets the criteria for an "underground source of drinking water" in Section 730.103 may be determined by the Board ~~under~~ pursuant to 35 Ill. Adm. Code 704.103, 704.123, and 702.105 to be an "exempted aquifer" if it meets the ~~following~~ criteria~~:~~ of either subsections (a) and (b) or (a) and (c) of this Section.

a) It does not currently serve as a source of drinking water; and

b) It cannot now and will not in the future serve as a source of drinking water because

one or more of the following is true of the aquifer:

1) It is mineral, hydrocarbon, or geothermal energy producing, or a permit applicant can demonstrate, as part of a permit application for a Class II or III injection well, that the aquifer contains minerals or hydrocarbons that are expected to be commercially producible considering their quantity and location;

2) It is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

4) It is located over a Class III injection well mining area subject to subsidence or catastrophic collapse; or

c) The total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 ~~mg/1~~ mg/ℓ, and the aquifer is not reasonably expected to supply a public water system.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.105 Classification of Injection Wells

Injection wells are classified as follows:

a) Class I injection wells. A Class I injection well is any of the following:

1) ~~Wells~~ A Class I hazardous waste injection well that is used by ~~generators~~ a generator of hazardous waste or ~~owners~~ an owner or ~~operators~~ operator of a hazardous waste management ~~facilities~~ facility to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

2) ~~Other~~ An industrial ~~and~~ or municipal disposal ~~wells~~ well that ~~inject~~ injects fluids beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

3) ~~Radioactive~~ A radioactive waste disposal ~~wells~~ well that ~~inject~~ injects fluids below the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

b) Class II injection wells. ~~Wells~~ A Class II injection well is one that ~~inject~~ injects any of the following types of fluids:

1) ~~That~~ Fluids that are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

2) ~~For~~ Fluids that are used for enhanced recovery of oil or natural gas; and

3) ~~For~~ Fluids that are used for storage of hydrocarbons that are liquid at standard temperature and pressure.

c) Class III injection wells. ~~Wells~~ A Class III injection well is one that that ~~inject~~ injects fluid for extraction of minerals, including one used in any of the following activities:

1) Mining of sulfur by the Frasch process;

2) In situ production of uranium or other metals. This category includes only in situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included in Class V; ~~and~~ or

3) Solution mining of salts or potash.

BOARD NOTE: ~~A~~ Class III ~~wells~~ injection well would include a well used for the recovery of geothermal energy to produce electric power but ~~do~~ does not include ~~wells~~ a well used in heating or aquaculture that ~~fall~~ falls under Class V.

d) Class IV injection wells. A Class IV injection well is any of the following:

1) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous waste or of radioactive waste, by ~~owners~~ an owner or ~~operators~~ operator of a hazardous waste management ~~facilities~~ facility, or by ~~owners~~ an owner or ~~operators~~ operator of a radioactive waste disposal ~~sites~~ site to dispose of hazardous waste or radioactive waste into a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.

2) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous waste or of radioactive waste, by ~~owners~~ an owner or ~~operators~~ operator of a hazardous waste management ~~facilities~~ facility, or by ~~owners~~ an owner or ~~operators~~ operator of a radioactive waste disposal ~~sites~~ site to dispose of hazardous waste or radioactive waste above a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.

3) ~~Wells~~ A well used by ~~generators~~ a generator of hazardous waste or ~~owners~~ an owner or ~~operators~~ operator of a hazardous waste management ~~facilities~~

facility to dispose of hazardous waste that cannot be classified ~~under~~ pursuant to subsection (a)(1), (d)(1), or (d)(2) of this Section (e.g., wells used to dispose of hazardous wastes into or above a formation that contains an aquifer that has been exempted pursuant to Section 730.104).

e) Class V injection wells. ~~Injection wells~~ A Class V injection well is any not included in Class I, Class II, Class III, or Class IV. Specific types of Class V injection wells include the following:

1) Air conditioning return flow wells used to return the water used in a heat pump for heating or cooling to the supply aquifer;

2) Cesspools, including multiple dwelling, community, or regional cesspools, or other devices that receive wastes that have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools or to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;

3) Cooling water return flow wells used to inject water previously used for cooling;

4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

5) Dry wells used for the injection of wastes into a subsurface formation;

6) Recharge wells used to replenish the water in an aquifer;

7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;

9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;

10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

11) Radioactive waste disposal wells other than Class IV injection wells;

12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture, or production of electric power;

13) Wells used for solution mining of conventional mines such as stopes leaching;

14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and

15) Injection wells used in experimental technologies.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.106 Area of Review

The area of review for each injection well or each field, project, or area in Illinois ~~shall~~ must be determined according to either subsection (a) or (b) ~~below~~ of this Section. The Agency may solicit input from the owners or operators of injection wells within Illinois as to which method is most appropriate for each geographic area or field.

a) Zone of endangering influence.

1) The zone of endangering influence ~~shall~~ must be the applicable of the following:

A) In the case of an application for a well permit ~~under~~ pursuant to 35 Ill. Adm. Code 704.161, that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water; or

B) In the case of an application for an area permit ~~under~~ pursuant to 35 Ill. Adm. Code 704.162, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water.

2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified This equation illustrates one form that the mathematical model may take.

~~$r = \sqrt{\frac{2.25kHt}{S \times 10^{x}}}$~~

$$r = \sqrt{\frac{2.25kHt}{S \times 10^{x}}}$$

where:

~~$x = \frac{4\pi KH(h_w - h_{bo} \times S_b G_b)}{2.3Q}$~~

$$x = \frac{4\pi KH(h_w - h_{bo} \times S_b G_b)}{2.3Q}$$

r = Radius of endangering influence from injection well (length)

k = Hydraulic conductivity of the injection zone (length/time)

H = Thickness of the injection zone (length)

t = Time of injection (time)

S = Storage coefficient (dimensionless)

Q = Injection rate (volume/time)

h_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking water

h_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water

S_pG_b = Specific gravity of fluid in the injection zone (dimensionless)

π = 3.14159 (dimensionless).

3) The above equation is based on the following assumptions:

A) The injection zone is homogenous and isotropic;

B) The injection zone has infinite area extent;

C) The injection well penetrates the entire thickness of the injection zone;

D) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and

E) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.

b) Fixed ~~Radius~~ radius.

1) In the case of an application for a well permit ~~under~~ pursuant to 35 Ill. Adm. Code 704.161, a fixed radius around the well of not less than 402 meters (~~1/4~~ one-quarter mile) may be used.

2) In the case of an application for an area permit ~~under~~ pursuant to 35 Ill. Adm. Code 704.162, a fixed width of not less than 402 meters (~~1/4~~ one-quarter mile) for the circumscribing area may be used.

3) In determining the fixed radius, the following factors ~~shall~~ must be taken into consideration: the chemistry of injected and formation fluids; the hydrogeology; the population and groundwater use and dependence; and historical practices in the area.

c) If the area of review is determined by a mathematical model pursuant to subsection (a) ~~above~~ of this Section, the permissible radius is the result of such calculation even if it is less than 402 meters (~~1/4~~ one-quarter mile).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.107 Corrective Action

In determining the adequacy of corrective action proposed by the applicant ~~under~~ pursuant to 35 Ill. Adm. Code 704.193 and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors ~~shall~~ must be considered by the Agency:

a) ~~Nature~~ The nature and volume of injected fluid;

b) ~~Nature~~ The nature of native fluids or by-products of injection;

c) ~~Potentially~~ Any potentially affected population;

d) Geology;

e) Hydrology;

f) ~~History~~ The history of the injection operation;

g) ~~Completion~~ Any completion and plugging records;

h) ~~Abandonment~~ Any abandonment procedures in effect at the time the well was abandoned; and

i) ~~Hydraulic~~ Any hydraulic connections with underground sources of drinking water.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.108 Mechanical Integrity

a) The ~~applicant or permittee~~ owner or operator must demonstrate mechanical integrity when required by other Sections. An injection well has mechanical integrity if both of the following conditions are fulfilled:

1) There is no significant leak in the casing, tubing, or packer; and

2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection bore.

b) One of the following tests must be used to demonstrate the absence of significant leaks ~~under~~ pursuant to subsection (a)(1) ~~above~~ of this Section:

1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Agency, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or

2) ~~Pressure~~ A pressure test with liquid or gas.

c) One of the following methods may be used to determine the absence of significant fluid movement ~~under~~ pursuant to subsection (a)(2) ~~above~~ of this Section:

1) The results of a temperature or noise log; ~~or~~

2) For Class III injection wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (c)(1) ~~above~~ of this Section, cementing records demonstrating the presence of adequate cement to prevent migration; or

3) For Class III injection wells where the Agency elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by 35 Ill. Adm. Code 730.113(b) ~~shall~~ must be designed to verify the absence of significant fluid movement.

d) The Agency may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (b) and (c) ~~above~~ of this Section. To obtain approval, the owner or operator ~~shall~~ must submit a written request to the Agency that sets forth the proposed test and all technical data supporting its use. The Agency ~~shall~~ must approve the request if the test will reliably demonstrate the mechanical integrity of wells for which its use is proposed.

e) In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Agency, the owner or operator and the Agency ~~shall~~ must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, it ~~shall~~ must include a description of the test and the method used. In making its evaluation, the Agency ~~shall~~ must review monitoring and other test data submitted since the previous evaluation.

f) The Agency may require additional or alternative tests if the results presented by the owner or operator ~~under~~ pursuant to subsection (e) ~~above~~ of this Section are not satisfactory to the Agency to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.109 Criteria for Establishing Permitting Priorities~~.~~

In determining priorities for setting times for owners or operators to submit applications for authorization to inject ~~under~~ pursuant to the procedures of 35 Ill. Adm. Code 704.161, the Agency ~~shall~~ must base these priorities upon consideration of the following factors:

a) ~~Injection~~ Any injection wells known or suspected to be contaminating underground sources of drinking water;

b) ~~Injection~~ Any injection wells known to be injecting fluids containing hazardous contaminants;

c) ~~Likelihood~~ The likelihood of contamination of underground sources of drinking water;

d) ~~Potentially~~ Any potentially affected population;

e) ~~Injection~~ Any injection wells violating existing Illinois requirements;

f) Coordination with the issuance of permits required by other State or ~~Federal~~ federal permit programs;

g) ~~Age~~ The age and depth of the injection well; and

h) ~~Expiration~~ The expiration dates of existing Illinois permits, if any.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.110 Plugging and Abandoning Wells

a) Requirements for Class I, II, and III injection wells.

1) Prior to abandoning a Class I or Class III injection well, the well must be plugged with cement in a manner that will not allow the movement of fluids either into or between underground sources of drinking water. The Agency may allow Class III injection wells to use other plugging materials if it is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.

2) Placement of the cement plugs must be accomplished by one of the following means:

A) The Balance Method;

B) The Dump Bailer Method;

C) The Two-Plug Method; or

D) An alternative method approved by the Agency in the permit that will reliably provide a comparable level of protection to underground sources of drinking water.

3) The well to be abandoned must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Agency, prior to the placement of the cement plug.

4) The plugging and abandonment required in 35 Ill. Adm. Code 704.181(f) and 704.188 must also demonstrate adequate protection of USDWs in the case of a Class III injection well that underlies or is in an aquifer that has been exempted ~~under~~ pursuant to Section 730.104. The Agency must prescribe aquifer cleanup and monitoring where it deems it necessary and feasible to insure adequate protection of USDWs.

b) Requirements for Class IV injection wells. Prior to abandoning a Class IV injection well, the owner or operator must close the well in accordance with 35 Ill. Adm. Code 704.145(b).

c) Requirements for Class V injection wells.

1) Prior to abandoning a Class V injection well, the owner or operator must close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation ~~under~~ pursuant to 35 Ill. Adm. Code 611, may cause a violation of any of the ground water quality standards of 35 Ill. Adm. Code 620, or may otherwise adversely affect the health of persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are listed at Section 704.289.

2) The owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section 730.111 Applicability

This Subpart B establishes criteria and standards for underground injection control programs to regulate Class I non-hazardous waste injection wells.

BOARD NOTE: Derived from 40 CFR 146.11 ~~(1988), as amended at 53 Fed. Reg. 28148, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.112 Construction Requirements

a) All Class I injection wells ~~shall~~ must be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within ~~400~~ 402 meters (~~one quarter~~ one-quarter mile) of the well bore, an underground source of drinking water.

b) All Class I injection wells ~~shall~~ must be cased and cemented to prevent the movement of fluids into or between underground sources of drinking water. The casing and cement used in the construction of each newly drilled well ~~shall~~ must be

designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors ~~shall~~ must be considered:

1) ~~Depth~~ The depth to the injection zone;

2) ~~Injection~~ The injection pressure, external pressure, internal pressure, and axial loading;

3) ~~Hole~~ The hole size;

4) ~~Size~~ The size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);

5) ~~Corrosiveness~~ The corrosiveness of injected fluid, formation fluids, and temperatures;

6) ~~Lithology~~ The lithology of the injection and confining intervals~~,~~; and

7) ~~Type~~ The type or grade of cement.

c) ~~All~~ A Class I injection ~~wells~~ well, except ~~those~~ a municipal ~~wells~~ well injecting non-corrosive wastes, ~~shall~~ must protect underground sources of drinking water against movement of fluids from the injection zone upward through the well. ~~Operators~~ An operator may do this by injecting fluids through tubing with a packer set immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal ~~shall~~ must be designed for the expected service.

1) The use of other alternatives to a packer may be allowed with the written approval of the Agency. To obtain approval, the operator ~~shall~~ must submit a written request to the Agency~~, which shall set~~ that sets forth the proposed alternative and all technical data supporting its use. The Agency ~~shall~~ must approve the request if the alternative method will reliably provide a comparable level of protection to underground sources of drinking water. The Agency may approve an alternative method solely for an individual well; however, the Agency may promulgate criteria approving alternatives pursuant to 35 Ill. Adm. Code 702.106.

2) In determining and specifying requirements for tubing, packer, or alternatives the following factors ~~shall~~ must be considered:

A) ~~Depth~~ The depth of setting;

B) Characteristics of the injection fluid (chemical content, corrosiveness, and density);

C) ~~Injection~~ The injection pressure;

D) ~~Annular~~ The annular pressure;

E) ~~Rate,~~ The rate, temperature, and volume of injected fluid; and

F) ~~Size~~ The size of the casing.

d) Appropriate logs and other tests ~~shall~~ must be conducted during the drilling and construction of new Class I injection wells. A descriptive report interpreting the results of such logs and tests ~~shall~~ must be prepared by a knowledgeable log analyst and submitted to the Agency. At a minimum, such logs and tests ~~shall~~ must include the following information:

1) Deviation checks on all holes constructed by first drilling a pilot hole, and then enlarging the pilot hole by reaming or another method. Such checks ~~shall~~ must be at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information, that may arise from time to time as the construction of the well progresses. In determining which logs and tests ~~shall~~ must be required, the following logs ~~shall~~ must be considered for use in the following situations:

A) For surface casing intended to protect underground sources of drinking water, the following:

i) Resistivity, spontaneous potential, and caliper logs before the casing is installed; and

ii) A cement bond, temperature, or density log after the casing is set and cemented.

B) For intermediate and long strings of casing intended to facilitate injection, the following:

i) Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed;

ii) Fracture finder logs; and

iii) A cement bond, temperature, or density log after the casing is set and cemented.

e) At a minimum, the following information concerning the injection formation ~~shall~~ must be determined or calculated for new Class I injection wells:

1) Fluid pressure;

2) Temperature;

3) Fracture pressure;

4) Other physical and chemical characteristics of the injection matrix~~,~~; and

5) Physical and chemical characteristics of the formation fluids.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.113 Operating, Monitoring, and Reporting Requirements

a) Operating Requirements. Operating requirements ~~shall~~ must, at a minimum, specify ~~that~~ the following:

1) ~~Except~~ That, except during stimulation, injection pressure at the wellhead ~~shall~~ must not exceed a maximum ~~which shall~~ that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case ~~shall~~ must injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water~~.~~;

2) ~~Injection~~ That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited~~.~~; and

3) ~~Unless~~ That, unless an alternative to a packer has been approved ~~under~~ pursuant to Section 730.112(c), the annulus between the tubing and the long string of casings ~~shall~~ must be filled with a fluid approved by permit condition, and a ~~pressureprescribed~~ pressure prescribed by permit condition ~~shall~~ must be maintained on the annulus.

b) Monitoring Requirements. Monitoring requirements ~~shall~~ must, at a minimum, include all of the following:

1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;

2) Installation and use of continuous recording devices to monitor injection pressure, flow rate, and volume, and the pressure on the annulus between the tubing and the long string of casing;

3) A demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well; and

4) The type, number, and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured, and the frequency of monitoring.

c) Reporting Requirements. Reporting requirements ~~shall~~ must, at a minimum, include:

1) Quarterly reports to the Agency on each of the following:

A) The physical, chemical, and other relevant characteristics of injection fluids;

B) ~~Monthly~~ The monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure; and

C) The results of monitoring prescribed ~~under~~ pursuant to subsection (b)(4) of this Section.

2) Reporting the results, with the first quarterly report after the completion of each of the following:

A) Periodic tests of mechanical integrity;

B) Any other test of the injection well conducted by the permittee if required by permit condition; and

C) Any well work over.

d) Ambient monitoring.

1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Agency ~~shall~~ must require the owner or operator to develop a monitoring program. At a minimum, the Agency ~~shall~~ must require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

2) When prescribing a monitoring system the Agency may also require:

A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the

owner or operator ~~shall~~ must, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;

B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition or to provide other site-specific data;

C) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;

D) Periodic monitoring of the ground water quality in the lowermost USDW; and

E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.13 ~~(1988), as amended at 53 Fed. Reg. 28148, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.114 Information to be Considered by the Agency

This ~~section~~ Section sets forth the information that must be considered by the Agency in authorizing a Class I ~~wells~~ injection well. For an existing or converted new Class I injection well, the Agency may rely on the existing permit file for those items of information listed below which are current and accurate in the file. For a newly drilled Class I injection well, the Agency ~~shall~~ must require the submission of all the information listed below. For both existing and new Class I injection wells, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

a) Prior to the issuance of a permit for an existing Class I injection well to operate or the construction or conversion of a new Class I injection well, the Agency ~~shall~~ must consider the following:

1) Information required in 35 Ill. Adm. Code 702.120 through 702.124 and ~~35 Ill. Adm. Code~~ 704.161(c);

2) A map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number, or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on

this map;

3) A tabulation of data on all wells within the area of review that penetrate into the proposed injection zone. Such data ~~shall~~ must include a description of each well's type, construction, date drilled, location, depth, record of plugging or completion, and any additional information the Agency may require;

4) Maps and ~~cross-sections~~ cross-sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in each underground source of drinking water that may be affected by the proposed injection;

5) Maps and ~~cross-sections~~ cross-sections detailing the geologic structure of the local area;

6) Generalized maps and ~~cross-sections~~ cross-sections illustrating the regional geologic setting;

7) Proposed operating data~~;~~, including the following information:

A) ~~Average~~ The average and maximum daily rate and volume of the fluid to be injected;

B) ~~Average~~ The average and maximum injection pressure; and

C) ~~Source~~ The source and an analysis of the chemical, physical, radiological, and biological characteristics of injection fluids;

8) ~~Proposed~~ A proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the receiving formation;

9) ~~Proposed~~ A proposed stimulation program;

10) ~~Proposed~~ The proposed injection procedure;

11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;

12) Contingency plans to cope with all shut-ins or well failures so as to prevent migration of fluids into any underground source of drinking water;

13) Plans (including maps) for meeting the monitoring requirements in Section 730.113(b);

14) For wells within the area of review that penetrate the injection zone but are not properly completed or plugged, the corrective action proposed to be taken ~~under~~ pursuant to 35 Ill. Adm. Code 704.193;

15) Construction procedures including a cementing and casing program~~,~~; logging procedures~~,~~; deviation checks~~,~~; and a drilling, testing, and coring program; and

16) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189.

b) Prior to granting approval for the operation of a Class I injection well, the Agency ~~shall~~ must consider the following information:

1) All available logging and testing program data on the well;

2) A demonstration of mechanical integrity pursuant to Section 730.108;

3) The anticipated maximum pressure and flow rate at that the permittee will operate;

4) The results of the formation testing program;

5) The actual injection procedure;

6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone; and

7) The status of corrective action on defective wells in the area of review.

c) Prior to granting approval for the plugging and abandonment of a Class I injection well, the Agency ~~shall~~ must consider the following information:

1) The type and number of plugs to be used~~,~~;

2) The placement of each plug including the elevation of the top and bottom;

3) The type and grade and quantity of cement to be used~~,~~;

4) The method for placement of the plugs; and

5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: CRITERIA AND STANDARDS APPLICABLE TO CLASS II INJECTION WELLS

Section 730.121 Adoption of Criteria and Standards Applicable to Class II Injection Wells by the Illinois Department of Mines and Minerals

The criteria and standards for Class II injection wells will be adopted by the Illinois Department of Mines and Minerals pursuant to Section 1425 of the SDWA (42 USC 300h-4).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: CRITERIA AND STANDARDS APPLICABLE TO CLASS III INJECTION WELLS

Section 730.131 Applicability

This ~~subpart~~ Subpart D establishes criteria and standards for underground injection control programs to regulate Class III injection wells.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.132 Construction Requirements

a) ~~All~~ A new Class III ~~wells~~ injection well must be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Agency may waive the cementing requirements for a new ~~wells~~ well in existing projects or portions of existing projects where it has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors must be considered:

1) ~~Depth~~ The depth to the injection zone;

2) ~~Injection~~ The injection pressure, external pressure, internal pressure, axial loading, etc.;

3) ~~Hole~~ The hole size;

4) ~~Size~~ The size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);

5) ~~Corrosiveness~~ The corrosiveness of injected fluids and formation fluids;

6) ~~Lithology~~ The lithology of injection and confining zones; and

7) ~~Type~~ The type and grade of cement.

b) Appropriate logs and other tests must be conducted during the drilling and construction of a new Class III ~~wells~~ injection well. A descriptive report interpreting the results of such logs and tests must be prepared by a knowledgeable log analyst and submitted to the Agency. The logs and tests appropriate to each type of Class III injection well must be determined based on the intended function, depth, construction, and other characteristics of the well; the availability of similar data in the area of the drilling site; and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks must be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they must be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

c) Where the injection zone is a formation that is naturally water-bearing, the following information concerning the injection zone must be determined or calculated for a new Class III ~~wells or projects~~ injection well or project:

1) ~~Fluid~~ The fluid pressure;

2) ~~Fracture~~ The fracture pressure; and

3) ~~Physical~~ The physical and chemical characteristics of the formation fluids.

d) Where the injection formation is not a water-bearing formation, the information in subsection (c)(2) ~~above~~ of this Section must be submitted.

e) Where injection is into a formation that contains water with less than 10,000 ~~mg/1~~ mg/ℓ TDS, monitoring wells ~~shall~~ must be completed into the injection zone and into any underground sources of drinking water above the injection zone that could be affected by the mining operation. These wells ~~shall~~ must be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells ~~shall~~ must be located so that they will not be physically affected.

f) Where injection is into a formation that does not contain water with less than 10,000 ~~mg/1~~ mg/ℓ TDS, no monitoring wells are necessary in the injection stratum.

g) Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells must be completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into the USDW. The monitoring wells must be located outside the

physical influence of the subsidence or catastrophic collapse.

h) In determining the number, location, construction, and frequency of monitoring of the monitoring wells the following criteria must be considered:

1) The population relying on the USDW affected or potentially affected by the injection operation;

2) The proximity of the injection operation to points of withdrawal of drinking water;

3) The local geology and hydrology;

4) The operating pressures and whether a negative pressure gradient is being maintained;

5) The nature and volume of the injected fluid, the formation water, and the process by-products; and

6) The injection well density.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.133 Operating, Monitoring, and Reporting Requirements

a) Operating ~~Requirements~~ requirements. Operating requirements prescribed must, at a minimum, specify ~~that~~ each of the following:

1) ~~Except~~ That, except during well stimulation, the injection pressure at the wellhead must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case ~~shall~~ must injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water~~.~~; and

2) ~~Injection~~ That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

b) Monitoring ~~Requirements~~ requirements. Monitoring requirements ~~shall~~ must, at a minimum, specify the information set forth in subsections (b)(1) through (b)(5) of this Section:

1) Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by Section 730.134(a)(7)(C) is incorrect or incomplete, the owner or operator ~~shall~~ must provide the

Agency with a new analysis as required by Section 730.134(a)(7)(C);

2) Monitoring of injection pressure and either flow rate or volume semimonthly, or metering and daily recording of injected and produced fluid volumes, as appropriate;

3) Demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well for salt solution mining;

4) Monitoring of the fluid level in the injection zone semi-monthly, where appropriate, and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 730.132(e) semi-monthly; and

5) Quarterly monitoring of wells required by Section 730.132(g).

6) ~~All~~ A Class III ~~wells~~ injection well may be monitored on a field or project basis, rather than on an individual well basis, by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.

c) Reporting ~~Requirements~~ requirements. Reporting requirements ~~shall~~ must, at a minimum, include the information set forth in subsections (c)(1) and (c)(2) of this Section, subject to subsection (c)(3) of this Section:

1) Quarterly reporting to the Agency on required monitoring; and

2) Results of mechanical integrity and any other periodic test required by the Agency reported with the first regular quarterly report after the completion of the test~~; and~~.

3) Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.134 Information to be Considered by the Agency

This ~~section~~ Section sets forth information ~~which~~ that must be considered by the Agency in authorizing a Class III ~~wells~~ injection well. Certain maps, ~~cross sections,~~ cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

a) Prior to the issuance of a permit ~~for~~ to operate an existing Class III injection well or area ~~to operate~~ or for the construction of a new Class III injection well, the Agency ~~shall~~ must consider the following:

1) ~~Information~~ The information required in 35 Ill. Adm. Code 702.120 through 702.124 and ~~35 Ill. Adm. Code~~ 704.161(c);

2) A map showing the injection well or project area for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map~~.~~;

3) A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required ~~under paragraph~~ pursuant to subsection (a)(2) of this Section ~~which~~ that penetrate the proposed injection zone. Such data ~~shall~~ must include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Agency may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Agency may elect to only require data on a representative number of wells~~.~~;

4) Maps and ~~cross sections~~ cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movements, where known, in every underground source of drinking water ~~which~~ that may be affected by the proposed injection;

5) Maps and ~~cross sections~~ cross-sections detailing the geologic structure of the local area;

6) Generalized map and ~~cross sections~~ cross-sections illustrating the regional geologic setting;

7) Proposed operating data~~;~~, as follows:

A) ~~Average~~ The average and maximum daily rate and volume of fluid to be injected;

B) ~~Average~~ The average and maximum injection pressure; and

C) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in 35 Ill. Adm. Code 101.107. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations ~~which shall~~ that must not be exceeded. In such a case the applicant ~~shall~~ must retain records of the undisclosed concentrations and provide them upon request to the Agency as part of any enforcement investigation~~.~~;

8) ~~Proposed~~ A proposed formation testing program to obtain the information required by Section 730.132(c);

9) ~~Proposed~~ A proposed stimulation program;

10) ~~Proposed~~ The proposed injection procedure;

11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;

12) Plans (including maps) for meeting the monitoring requirements of Section 730.133(b);

13) Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;

14) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into underground sources of drinking water;

15) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189; and

16) The corrective action proposed to be taken ~~under~~ pursuant to 35 Ill. Adm. Code 704.193.

b) Prior to granting approval for the operation of a Class III injection well, the Agency ~~shall~~ must consider the following information:

1) All available logging and testing data on the well;

2) A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution pursuant to Section 730.108;

3) The anticipated maximum pressure and flow rate at which the permittee will

operate;

4) The results of the formation testing program;

5) The actual injection procedures; and

6) The status of corrective action on defective wells in the area of review.

c) Prior to granting approval for the plugging and abandonment of a Class III injection well, the Agency ~~shall~~ must consider the following information:

1) The type and number of plugs to be used;

2) The placement of each plug including the elevation of the top and bottom;

3) The type, grade, and quantity of cement to be used;

4) The method of placement of the plugs; and

5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: CRITERIA AND STANDARDS APPLICABLE TO CLASS V INJECTION WELLS

Section 730.151 Applicability

This Subpart F sets forth criteria and standards for underground injection control programs to regulate all injection not regulated in ~~730.Subparts B, D, and E~~ Subparts B, D, and E of this Part. A Class II ~~wells~~ injection well, however, ~~are~~ is not regulated by this Subpart F.

a) Generally, ~~wells~~ a well covered by this Subpart F ~~inject~~ injects non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 730.105(e) but is not limited to those types of injection wells.

b) It also includes ~~wells~~ a well not covered in Class IV that ~~inject~~ injects radioactive materials listed in table II, column 2 in appendix B to 10 CFR 20~~, Appendix B, Table II, Column 2~~ (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO CLASS I HAZARDOUS WASTE INJECTION WELLS

Section 730.161 Applicability and Definitions

a) This Subpart G establishes criteria and standards for underground injection control programs to regulate Class I hazardous waste injection wells. Unless otherwise noted, this Subpart G supplements the requirements of Subpart A of this Part and applies instead of Subpart B of this Part to a Class I hazardous waste injection ~~wells~~ well.

b) Definitions. The following definitions apply for the purposes of this Subpart G:

"Cone of influence" means that area around the well within which increased injection zone pressures caused by injection into the hazardous waste injection well would be sufficient to drive fluids into a USDW.

"Existing well" means a Class I hazardous waste injection well ~~which~~ that had a UIC permit or UIC permit by rule prior to August 25, 1988, or a well ~~which~~ that has become a Class I hazardous waste injection well as a result of a change in the definition of the injected waste which would render the waste hazardous ~~under~~ pursuant to 35 Ill. Adm. Code 721.103.

"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"New well" means any Class I hazardous waste injection well ~~which~~ that is not an existing well.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 146.61~~, as added at 53 Fed. Reg. 28148, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.162 Minimum Criteria for Siting

a) All Class I hazardous waste injection wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 402 meters (~~1/4~~ one-quarter mile) of the well bore, a USDW.

b) The siting of a Class I hazardous waste injection ~~wells shall~~ well must be limited to ~~areas~~ an area that ~~are~~ is geologically suitable. The Agency ~~shall~~ must determine geologic suitability based upon its consideration of the following:

1) An analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity of the region;

2) An analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding stratigraphy, structure, and rock properties~~,~~; aquifer hydrodynamics; and mineral resources; and

3) A determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted through the use of models.

c) Class I hazardous waste injection wells ~~shall~~ must be sited such that the following is true:

1) The injection zone has sufficient permeability, porosity, thickness, and area extent to prevent migration of fluids into USDWs; and

2) The confining zone is as follows:

A) ~~Is~~ It is laterally continuous and free of transecting, transmissive faults, or fractures over an area sufficient to prevent the movement of fluids into a USDW; and

B) ~~Contains~~ It contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures.

d) The owner or operator ~~shall~~ must demonstrate one of the alternatives in subsections (d)(1) through (d)(3) of this Section to the Agency ~~that~~, subject to subsection (d)(4) of this Section:

1) ~~The~~ That the confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault; ~~or~~

2) ~~Within~~ That, within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW, considering density effects, injection pressures, and any significant pumping in the overlying USDW; or

3) There is no USDW present.

4) The owner or operator of a site ~~which~~ that does not meet the requirements in subsection (d)(1), (d)(2), or (d)(3) of this Section may petition the Board for

an adjusted standard pursuant to Subpart D of 35 Ill. Adm. Code ~~106.Subpart G~~ 104. The Board may grant an adjusted standard approving such a site if it determines that because of site geology, nature of the wastes involved, or other considerations~~,~~; abandoned boreholes; or other conduits would not cause an endangerment of USDWs. A petition for an adjusted standard ~~under~~ pursuant to this subsection (d)(4) must include the following components:

A) Those portions of a permit application for the particular injection activities and site ~~which~~ that are relevant to the Board's determination; and

B) Such other relevant information that the Board may by order require pursuant to 35 Ill. Adm. Code ~~106.705(l)~~ 104.228.

BOARD NOTE: Derived from 40 CFR 146.62~~, as added at 53 Fed. Reg. 28148, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.163 Area of Review

For the purposes of Class I hazardous waste injection wells, this Section applies instead of Section 730.106. The area of review for a Class I hazardous waste ~~wells shall~~ injection well must be a ~~2-mile~~ two-mile radius around the well bore. The Agency may specify by permit condition a larger area of review in the UIC permit if it determines in writing that the larger area is necessary based on the calculated cone of influence of the well.

BOARD NOTE: Derived from 40 CFR 146.63~~, added at 53 Fed. Reg. 28148, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.164 Corrective Action for Wells in the Area of Review

For the purposes of a Class I hazardous waste injection ~~wells~~ well, this Section applies instead of 35 Ill. Adm. Code 704.193 and Section 730.107.

a) The owner or operator of a Class I hazardous waste injection well ~~shall~~ must, as part of the permit application, submit a plan to the Agency outlining the protocol used to accomplish both of the following:

1) Identify all wells penetrating the confining zone or injection zone within the area of review; and

2) Determine whether wells are adequately completed or plugged.

b) The owner or operator of a Class I hazardous waste injection well ~~shall~~ must identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and ~~shall~~ must submit both of the following, as required in Section 730.170(a):

1) A tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and

2) A description of each well or type of well and any records of its plugging or completion.

c) For wells that the Agency determines are improperly plugged, completed, or abandoned~~,~~ or for which plugging or completion information is unavailable, the applicant ~~shall~~ must also submit a plan consisting of such steps or modification as are necessary to prevent movement of fluids into or between USDWs. Where the plan is adequate, the Agency ~~shall~~ must incorporate it into the permit as a condition. Where the Agency's review of an application indicates the permittee's plan is inadequate (based at a minimum on the factors in subsection (e) of this Section), the Agency ~~shall~~ must do the appropriate of the following:

1) ~~Require~~ It must require the applicant to revise the plan;

2) ~~Prescribe~~ It must prescribe a plan for corrective action as a condition of the permit; or

3) ~~Deny~~ It must deny the application.

d) Requirements~~:~~.

1) Existing injection wells. Any permit issued for an existing Class I hazardous waste injection well requiring corrective action other than pressure limitations must include a compliance schedule ~~under~~ pursuant to 35 Ill. Adm. Code 702.162 requiring any corrective action accepted or prescribed ~~under~~ pursuant to subsection (c) of this Section. Any such compliance schedule must provide for compliance no later than ~~2~~ two years following issuance of the permit and must require observance of appropriate pressure limitations ~~under~~ pursuant to subsection (d)(3) of this Section until all other corrective action measures have been implemented.

2) New injection wells. No owner or operator of a new Class I hazardous waste injection well may begin injection until all corrective actions required ~~under~~ pursuant to this Section have been taken.

3) The Agency may require pressure limitations instead of plugging. If pressure limitations are used instead of plugging, the Agency ~~shall~~ must require as a

permit condition that injection pressure be limited so that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into or between USDWs. This pressure limitation ~~shall~~ must satisfy the corrective action requirements. Alternatively, such injection pressure limitation may be made part of a compliance schedule ~~under~~ pursuant to 35 Ill. Adm. Code 702.162 and may be required to be maintained until all other required corrective actions have been implemented.

e) The Agency ~~shall~~ must consider the following criteria and factors in determining the adequacy of corrective action proposed by the applicant ~~under~~ pursuant to subsection (c) of this Section and in determining the additional steps needed to prevent fluid movement into and between USDWs:

1) ~~Nature~~ The nature and volume of injected fluid;

2) ~~Nature~~ The nature of native fluids or byproducts of injection;

3) Geology;

4) Hydrology;

5) ~~History~~ The history of the injection operation;

6) ~~Completion~~ Any completion and plugging records;

7) ~~Closure~~ The closure procedures in effect at the time the well was closed;

8) ~~Hydraulic~~ Any hydraulic connections with USDWs;

9) ~~Reliability~~ The reliability of the procedures used to identify abandoned wells; and

10) Any other factors ~~which~~ that might affect the movement of fluids into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.64~~, as added at 53 Fed. Reg. 28149, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.165 Construction Requirements

a) General. All existing and new Class I hazardous waste injection wells ~~shall~~ must be constructed and completed to accomplish each of the following:

1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;

2) Permit the use of appropriate testing devices and workover tools; and

3) Permit continuous monitoring of injection tubing and long string casing as required pursuant to Section 730.167(f);

b) Compatibility. All well materials must be compatible with fluids with which the materials may be expected to come into contact. The owner or operator ~~shall~~ must employ any compatibility testing method specified by permit condition. The owner or operator may otherwise refer to "Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," ~~EPA~~ USEPA publication number EPA-570/9-87-002, incorporated by reference at 35 Ill. Adm. Code 720.111.

c) Casing and ~~Cementing New Wells~~ cementing new wells.

1) Casing and cement used in the construction of each newly drilled well ~~shall~~ must be designed for the life expectancy of the well, including the post-closure care period. The casing and cementing program ~~shall~~ must be designed to prevent the movement of fluids into or between USDWs, and to prevent potential leaks of fluids from the well. The Agency ~~shall~~ must consider the following information as required by Section 730.170 in determining and specifying casing and cementing requirements:

A) ~~Depth~~ The depth to the injection zone;

B) ~~Injection~~ The injection pressure, external pressure, internal pressure, and axial loading;

C) ~~Hole~~ The hole size;

D) ~~Size~~ The size and grade of all casing strings (well thickness, diameter, nominal weight, length, joint specification, and construction material);

E) ~~Corrosiveness~~ The corrosiveness of injected fluid, formation fluids, and temperature;

F) ~~Lithology~~ The lithology of the injection and confining zones;

G) ~~Type~~ The type or grade of cement; and

H) ~~Quantity~~ The quantity and chemical composition of the injected fluid.

2) One surface casing string must, at a minimum, extend into the confining bed

below the lowest formation that contains a USDW and be cemented by circulating cement from the base of the casing to the surface, using a minimum of ~~120%~~ 120 percent of the calculated annular volume. The Agency may require more than ~~120%~~ 120 percent when the geology or other circumstances warrant it.

3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages:

A) Of sufficient quantity and quality to withstand the maximum operating pressure; and

B) In a quantity no less than ~~120%~~ 120 percent of the calculated volume necessary to fill the annular space. The Agency ~~shall~~ must require more than ~~120%~~ 120 percent when the geology or other circumstances warrant it.

4) Circulation of cement may be accomplished by staging. The Agency may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous and does not allow fluid movement behind the well bore.

5) Casings, including any casing connections, must be rated to have sufficient structural strength to withstand~~,~~ both of the following conditions for the design life of the well:

A) The maximum burst and collapse pressures ~~which~~ that may be experienced during the construction, operation, and closure of the well; and

B) The maximum tensile stress ~~which~~ that may be experienced at any point along the length of the casing during the construction, operating, and closure of the well.

6) At a minimum, cement and cement additives must be of sufficient quality and quantity to maintain integrity over the design life of the well.

d) Tubing and packer.

1) All Class I hazardous waste injection wells must inject fluids through tubing with a packer set at a point specified by permit condition.

2) In determining and specifying requirements for tubing and packer, the following factors must be considered~~;~~:

A) ~~Depth~~ The depth of setting;

B) ~~Characteristics~~ The characteristics of injection fluid (chemical content, corrosiveness, temperature, and density);

C) ~~Injection~~ The injection pressure;

D) ~~Annular~~ The annular pressure;

E) ~~Rate~~ The rate (intermittent or continuous), temperature, and volume of injected fluid;

F) ~~Size~~ The size of casing; and

G) ~~Tubing~~ The tubing tensile, burst, and collapse strengths.

3) The Agency may approve the use of a fluid seal if it determines in writing that the following conditions are met:

A) The operator demonstrates that the seal will provide a level of protection comparable to a packer;

B) The operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;

C) The permit contains specific limitations on variations in annular pressure and loss of annular fluid;

D) The design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and

E) A secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

BOARD NOTE: Derived from 40 CFR 146.65~~, added at 53 Fed. Reg. 28149, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.166 Logging, Sampling, and Testing Prior to New Well Operation

a) During the drilling and construction of a new Class I hazardous waste injection well, the owner or operator ~~shall~~ must run appropriate logs and tests to determine or verify the depth, thickness, porosity, permeability, rock type, and the salinity of any entrained fluids in, all relevant geologic units to assure conformance with performance standards set forth in Section 730.165 and to establish accurate baseline data against which future measurements may be compared. A descriptive report interpreting results of such logs and tests ~~shall~~ must be prepared by a knowledgeable log analyst and submitted to the Agency. At a minimum, such logs and tests must include the following information:

1) Deviation checks during drilling on all holes constructed by drilling a pilot hole ~~which~~ that is enlarged by reaming or another method. Such checks must be at sufficiently frequent intervals to determine the location of the borehole and to assure that vertical avenues for fluid movement in the form of diverging holes are not created during drilling; and

2) Such other logs and tests as may be needed after taking into account the availability of similar data in the area of the drilling site, the construction plan, and the need for additional information that may arise from time to time as the construction of the well progresses. At a minimum, the following logs must be required in the ~~following~~ indicated situations:

A) Upon installation of the surface casing, the following information:

i) Resistivity, spontaneous potential, and caliber logs before the casing is installed; and

ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and

B) Upon installation of the long string casing, the following information:

i) Resistivity, spontaneous potential, porosity, caliper, gamma ray, and fracture finder logs before the casing is installed; and

ii) A cement bond and variable density log, and a temperature log after the casing is set and cemented; and

C) The Agency ~~shall~~ must allow the use of an alternative to the above logs when an alternative will provide equivalent or better information; and

3) A mechanical integrity test consisting of the following:

A) A pressure test with liquid or gas;

B) A radioactive tracer survey;

C) A temperature or noise log;

D) A casing inspection log, if required by permit condition; and

E) Any other test required by permit condition.

b) Whole cores or sidewall cores of the confining and injection zones and formation fluid samples from the injection zone must be taken. The Agency may accept cores from nearby wells if the owner or operator can demonstrate that core retrieval is not possible and that such cores are representative of conditions at the well. The Agency may require the owner or operator to core other formations in the borehole.

c) The fluid temperature, pH, conductivity, pressure, and the static fluid level of the injection zone must be recorded.

d) At a minimum, the following information concerning the injection and confining zones ~~shall~~ must be determined or calculated for Class I hazardous waste injection wells:

1) ~~Fracture~~ The fracture pressure;

2) Other physical and chemical characteristics of the injection and confining zones; and

3) ~~Physical~~ The physical and chemical characteristics of the formation fluids in the injection zone.

e) Upon completion, but prior to operation, the owner or operator ~~shall~~ must conduct the following tests to verify hydrogeologic characteristics of the injection zone:

1) A pump test; or

2) Injectivity tests.

f) The Agency ~~shall~~ must have the opportunity to witness all logging and testing required by this Subpart G. The owner or operator ~~shall~~ must submit a schedule of such activities to the Agency not less than 30 days prior to conducting the first test.

BOARD NOTE: Derived from 40 CFR 146.66~~, as added at 53 Fed. Reg. 28150, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.167 Operating Requirements

a) Except during stimulation, the owner or operator must assure that injection pressure at the wellhead does not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. The owner or operator must assure that the injection pressure does not initiate fractures or propagate existing fractures in the confining zone, nor cause the movement of injection or formation fluids into a USDW.

b) Injection between the outermost casing ~~protection~~ protecting USDWs and the well bore is prohibited.

c) The owner or operator must maintain an annulus pressure that exceeds the operating injection pressure, unless the Agency determines in writing that such a requirement might harm the integrity of the well. The fluid in the annulus must be noncorrosive, or must contain a corrosion inhibitor.

d) The owner or operator must maintain mechanical integrity of the injection well at all times.

e) Permit requirements for owners or operators of hazardous waste injection wells that inject wastes ~~which~~ that have the potential to react with the injection formation to generate gases must include the following:

1) Conditions limiting the temperature, pH, or acidity of the injected waste; and

2) Procedures necessary to assure that pressure imbalances that might cause a backflow or blowout do not occur.

f) The owner or operator must install and use continuous recording devices to monitor each of the following: the injection pressure; the flow rate, volume, and temperature of injected fluids; and the pressure on the annulus between the tubing and the long string casing, and must install and use either of the following:

1) Automatic alarm and automatic shut-off systems, designed to sound and shut-in the well when pressures and flow rates or other parameters specified by permit condition exceed a range or gradient specified in the permit; or

2) Automatic alarms, designed to sound when the pressures and flow rates or other parameters exceed a rate or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on-site

at all times when the well is operating.

g) If an automatic alarm or shutdown is triggered, the owner or operator must immediately investigate and identify the cause of the alarm or shutoff without undue delay. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required ~~under~~ pursuant to subsection (f) of this Section otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must undertake all of the following actions:

1) ~~Stop~~ It must stop injecting waste fluids unless authorized by permit condition to continue or resume injection;

2) ~~Take~~ It must take all necessary steps to determine the presence or absence of a leak; and

3) ~~Notify~~ It must notify the Agency within 24 hours after the alarm or shutdown.

h) If a loss of mechanical integrity is discovered pursuant to subsection (g) of this Section or during periodic mechanical integrity testing, the owner or operator must undertake all of the following actions:

1) ~~Immediately~~ It must immediately cease injection of waste fluids;

2) ~~Take~~ It must take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;

3) ~~Notify~~ It must notify the Agency within 24 hours after loss of mechanical integrity is discovered;

4) ~~Notify~~ It must notify the Agency when injection can be expected to resume; and

5) ~~Restore~~ It must restore and demonstrate mechanical integrity pursuant to Section 730.108 prior to resuming injection of waste fluids.

i) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone, the following must occur:

1) The owner or operator must immediately cease injection of waste fluids, and undertake all of the following actions:

A) ~~Notify~~ It must notify the Agency within 24 hours of obtaining such evidence;

B) ~~Take~~ It must take all necessary steps to identify and characterize the extent of any release;

C) ~~Comply~~ It must comply with any remediation plan specified by permit condition;

D) ~~Implement~~ It must implement any remediation plan specified by permit condition; and

E) Where such release is into a USDW currently serving as a water supply, it must place a notice in a newspaper of general circulation.

2) The Agency must permit the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs.

j) The owner or operator must notify the Agency and obtain a permit modification prior to conducting any well workover.

BOARD NOTE: Derived from 40 CFR 146.67 ~~(1999)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.168 Testing and Monitoring Requirements

Testing and monitoring requirements ~~shall~~ must at a minimum include:

a) Monitoring of the injected wastes.

1) The owner or operator ~~shall~~ must develop and follow an approved written waste analysis plan that describes the procedures to be carried out to obtain a detailed chemical and physical analysis of a representative sample of the waste, including the quality assurance procedures used. At a minimum, the plan ~~shall~~ must specify all of the following:

A) The parameters for which the waste will be analyzed and the rationale for the selection of these parameters;

B) The test methods that will be used to test for these parameters; and

C) The sampling method that will be used to obtain a representative sample of the waste to be analyzed.

2) The owner or operator ~~shall~~ must repeat the analysis of the injected wastes as described in the waste analysis plan at frequencies specified in the waste

analysis plan and when process or operating changes occur that may significantly alter the characteristics of the waste stream.

3) The owner or operator ~~shall~~ must conduct continuous or periodic monitoring of selected parameters as required by permit condition.

4) The owner or operator ~~shall~~ must assure that the plan remains accurate and the analyses remain representative.

b) Hydrogeologic compatibility determination. The owner or operator ~~shall~~ must submit information demonstrating that the wastestream and its anticipated reaction products will not alter the permeability, thickness, or other relevant characteristics of the confining or injection zones such that they would no longer meet the requirements specified in Section 730.162.

c) Compatibility of well materials.

1) The owner or operator ~~shall~~ must demonstrate that the waste stream will be compatible with the well materials with which the waste is expected to come into contact, and submit to the Agency a description of the methodology used to make that determination. Compatibility, for the purposes of this requirement, is established if contact with injected fluids will not cause the well materials to fail to satisfy any design requirement imposed ~~under~~ pursuant to Section 730.165(b).

2) The Agency ~~shall~~ must require continuous corrosion monitoring of the construction materials used in the well for wells injecting corrosive waste, and may require such monitoring for other wastes, by any of the following means:

A) Placing coupons of the well construction materials in contact with the waste stream; ~~or~~

B) Routing the waste stream through a loop constructed with the material used in the well; or

C) Using an alternative method approved by permit condition.

3) If a corrosion monitoring program is required, both of the following must occur:

A) The test must use materials identical to those used in the construction of the well, and such materials must be continuously exposed to the operating pressures and temperatures (measured at the well head) and flow rates of the injection operation; and

B) The owner or operator ~~shall~~ must monitor the materials for loss of mass, thickness, cracking, pitting, and other signs of corrosion on a quarterly basis to ensure that the well components meet the minimum standards for material strength and performance set forth in Section 730.165(b).

d) Periodic mechanical integrity testing. In fulfilling the requirements of Section 730.108, the owner or operator of a Class I hazardous waste injection well ~~shall~~ must conduct the mechanical integrity testing as follows:

1) The long string casing, injection tube, and annular seal must be tested by means of an approved pressure test with a liquid or gas annually and whenever there has been a well workover;

2) The bottom-hole cement must be tested by means of an approved radioactive tracer survey annually;

3) An approved temperature, noise, or other approved log must be run at least once every five years to test for movement of fluid along the borehole. The Agency may require such tests whenever the well is worked over;

4) Running casing inspection logs.

A) Casing inspection logs must be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the Agency by permit allows otherwise for either of the following reasons:

i) ~~due~~ Due to well construction or other factors that limit the test's reliability~~,~~; or

ii) ~~based~~ Based on the satisfactory results of a casing inspection log run within the previous five years.

B) The Agency may require by permit that the owner or operator run a casing inspection log if it determines in writing that it has reason to believe that the integrity of the long string casing of the well may be adversely affected by naturally-occurring or man-made events; and

5) Any other test specified by permit condition in accordance with the procedures set forth in Section 730.108(d) may also be used.

e) Ambient ~~Monitoring~~ monitoring.

1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone, and on the potential value of monitoring wells to

detect such movement, the Agency ~~shall~~ must require the owner or operator to develop a monitoring program. At a minimum, the Agency ~~shall~~ must require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

2) When prescribing a monitoring system the Agency may also require any of the following actions that it determines in writing is necessary:

A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator ~~shall~~ must, on a quarterly basis, sample the aquifer, and analyze for constituents specified by permit condition;

B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition, or to provide other site-specific data;

C) Periodic monitoring of the groundwater quality in the first aquifer overlying the injection zone;

D) Periodic monitoring of the ground water quality in the lowermost USDW;

E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs; ~~and~~ or

F) ~~The Agency may require seismicity~~ Seismicity monitoring, when ~~it~~ the Agency has reason to believe that the injection activity may have the capacity to cause seismic disturbances.

BOARD NOTE: Derived from 40 CFR 146.68 (1992)~~, as amended at 57 Fed. Reg. 46294, October 7, 1992~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.169 Reporting Requirements

Reporting requirements must, at a minimum, include the following:

a) Quarterly reports to the Agency containing the following information:

1) The maximum injection pressure;

2) A description of any event that exceeds operating parameters for annulus pressure or injection pressure as specified in the permit;

3) A description of any event ~~which~~ that triggers an alarm or shutdown device required pursuant to Section 730.167(f) and the response taken;

4) The total volume of fluid injected;

5) Any change in the annular fluid volume;

6) The physical, chemical, and other relevant characteristics of injected fluids; and

7) The results of monitoring prescribed ~~under~~ pursuant to Section 730.168; and

b) Reporting, within 30 days or with the next quarterly report, whichever comes later, the results of~~;~~ any of the following activities:

1) Periodic tests of mechanical integrity;

2) Any other test of the injection well conducted by the permittee if required by permit condition; and

3) Any well workover.

BOARD NOTE: Derived from 40 CFR 146.69~~, as added at 53 Fed. Reg. 28152, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.170 Information to be Evaluated

This Section sets forth the information ~~which~~ that must be evaluated by the Agency in authorizing a Class I hazardous waste injection ~~wells~~ well. For a new Class I hazardous waste injection well, the owner or operator ~~shall~~ must submit all the information listed below as part of the permit application. For an existing or converted Class I hazardous waste injection well, the owner or operator ~~shall~~ must submit all information listed below as part of the permit application except for those items of information ~~which~~ that are current, accurate, and available in the existing permit file. For ~~both~~ either an existing ~~and~~ or a new Class I hazardous waste injection ~~wells~~ well, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, ~~and~~ readily available to the Agency (for example, in the permitting Agency's file), and sufficiently identifiable to be retrieved.

a) Before issuing a permit for an existing Class I hazardous waste injection well to operate, or the construction or conversion of a new Class I hazardous waste injection well, the Agency ~~shall~~ must review the following to assure that the requirements of this Part and 35 Ill. Adm. Code 702 and 704 are met:

1) Information required in 35 Ill. Adm. Code 704.161;

2) A map showing the injection well for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells, and other pertinent surface features, including residences and roads. The map must also show faults, if known or suspected;

3) A tabulation of all wells within the area of review ~~which~~ that penetrate the proposed injection zone or confining zone. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging or completion, and any additional information the Agency may require;

4) The protocol followed to identify, locate, and ascertain the condition of abandoned wells within the area of review ~~which~~ that penetrate the injection or the confining zones;

5) Maps and cross-sections indicating the general vertical and lateral limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in each underground source of drinking water ~~which~~ that may be affected by the proposed injection;

6) Maps and cross-sections detailing the geologic structure of the local area;

7) Maps and cross-sections illustrating the regional geologic setting;

8) Proposed operating data, as follows:

   A) ~~Average~~ The average and maximum daily rate and volume of the fluid to be injected; and

   B) ~~Average~~ The average and maximum injection pressure;

9) ~~Proposed~~ The proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of and other information on the injection formation and the confining zone;

10) ~~Proposed~~ The proposed stimulation program;

11) ~~Proposed~~ The proposed injection procedure;

12) Schematic or other appropriate drawings of the surface and subsurface

construction details of the well;

13) ~~Contingency~~ The contingency plan to cope with all shut-ins or well failures so as to prevent migration of fluids into any USDW;

14) ~~Plans~~ The plans (including maps) for meeting monitoring requirements of Section 730.168;

15) For wells within the area of review ~~which~~ that penetrate the injection zone or the confining zone but are not properly completed or plugged, the corrective action to be taken ~~under~~ pursuant to Section 730.164;

16) ~~Construction~~ The construction procedures including a cementing and casing program, well materials specification and their life expectancy~~,~~; logging procedures~~,~~; deviation checks~~,~~; and a drilling, testing, and coring program; and

17) A demonstration, pursuant to Subpart G of 35 Ill. Adm. Code 704~~.Subpart G~~, that the applicant has the resources necessary to close, plug, or abandon the well and for post-closure care.

b) Before the Agency grants approval for the operation of a Class I hazardous waste injection well, the owner or operator ~~shall~~ must submit, and the Agency ~~shall~~ must review, the following information, which must be included in the completion report:

1) All available logging and testing program data on the well;

2) A demonstration of mechanical integrity pursuant to Section 730.168;

3) The anticipated maximum pressure and flow rate at which the permittee will operate;

4) The results of the injection zone and confining zone testing program as required in Section 730.170(a)(9);

5) The actual injection procedure;

6) The compatibility of injected waste with fluids in the injection zone and minerals in both the injection zone and the confining zone and with the materials used to construct the well;

7) The calculated area of review based on data obtained during logging and testing of the well and the formation and, where necessary, revisions to the information submitted ~~under~~ pursuant to Section 730.170(a)(2) and (a)(3); and

8) The status of corrective action on wells identified in Section 730.170(a)(15).

c) Prior to granting approval for the plugging and abandonment (i.e., closure) of a Class I hazardous waste injection well, the Agency ~~shall~~ must review the information required in Sections 730.171(a)(4) and 730.172(a).

d) Any permit issued for a Class I hazardous waste injection well for disposal on the premises where the waste is generated must contain a certification by the owner or operator that the following facts are true:

1) The generator of the hazardous waste has a program to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

2) Injection of the waste is that practicable method of disposal currently available to the generator ~~which~~ that minimizes the present and future threat to human health and the environment.

BOARD NOTE: Derived from 40 CFR 146.70~~, as added at 53 Fed. Reg. 28152, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.171 Closure

a) Closure ~~Plan~~ plan. The owner or operator of a Class I hazardous waste injection well ~~shall~~ must prepare, maintain, and comply with a plan for closure of the well that meets the requirements of subsection (d) of this Section and is specified by permit condition. The obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

1) The owner or operator ~~shall~~ must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.

2) The owner or operator ~~shall~~ must submit any proposed significant revision to the method of closure reflected in the plan for approval by the Agency no later than the date on which notice of closure is required to be submitted to the Agency ~~under~~ pursuant to subsection (b) of this Section.

3) The plan must assure financial responsibility, as required in 35 Ill. Adm. Code 704.189.

4) The plan must include the following information:

A) The type and number of plugs to be used;

B) The placement of each plug including the evaluation of the top and bottom of each plug;

C) The type and grade and quantity of material to be used in plugging;

D) The method of placement of the plugs;

E) Any proposed test or measure to be made;

F) The amount, size, and location (by depth) of casing and any other materials to be left in the well;

G) The method and location where casing is to be parted, if applicable;

H) The procedure to be used to meet the requirements of subsection (d)(5) of this Section; and

I) The estimated cost of closure.

5) The Agency must modify a closure plan following the procedures of Subpart C of 35 Ill. Adm. Code 702~~. Subpart C~~.

6) An owner or operator of a Class I hazardous waste injection well who stops injection temporarily, may keep the well open if the conditions of subsection (a)(6)(A) and (a)(6)(B) of this Section are true of owner or operator, subject to subsection (a)(6)(C) of this Section:

A) Has received authorization from the Agency; and

B) Has described actions or procedures, satisfactory to the Agency, that the owner or operator will take actions to ensure that the well will not endanger USDWs during the period of temporary disuse. These actions and procedures must include compliance with the technical requirements applicable to active injection wells unless otherwise waived by permit condition.

C) For the purposes of this subsection (a), submitting a description of actions or procedures for Agency authorization is in the nature of a permit application, and the owner or operator may appeal the Agency's decision to the Board.

7) The owner or operator of a well that has ceased operations for more than two years ~~shall~~ must notify the Agency at least 30 days prior to resuming

operation of the well.

b) Notice of intent to close. The owner or operator ~~shall~~ must notify the Agency at least 60 days before closure of a well.

c) Closure report. Within 60 days after closure, or at the time of the next quarterly report (whichever is less), the owner or operator ~~shall~~ must submit a closure report to the Agency. If the quarterly report is due less than 15 days after completion of closure, then the report must be submitted within 60 days after closure. The report must be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report must consist of either of the following documents:

1) A statement that the well was closed in accordance with the closure plan previously submitted and approved by the Agency; or

2) Where actual closure differed from the plan previously submitted, a written statement specifying the differences between the previous plan and the actual closure.

d) Standards for well closure.

1) Prior to closing the well, the owner or operator ~~shall~~ must observe and record the pressure decay for a time specified by permit condition. The Agency ~~shall~~ must analyze the pressure decay and the transient pressure observations conducted pursuant to Section 730.168(e)(1)(A) and determine whether the injection activity has conformed ~~with~~ to predicted values.

2) Prior to well closure, appropriate mechanical integrity testing must be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include the following:

A) Pressure tests with liquid or gas;

B) Radioactive tracer surveys;

C) Noise, temperature, pipe evaluation, or cement bond logs; and

D) Any other test required by permit condition.

3) Prior to well closure, the well must be flushed with a buffer fluid.

4) Upon closure, a Class I hazardous waste injection well must be plugged with cement in a manner that will not allow the movement of fluids into or between USDWs.

5) Placement of the cement plugs must be accomplished by one of the following means:

A) The Balance Method;

B) The Dump Bailer Method;

C) The Two-Plug Method; or

D) An alternative method, specified by permit condition, that will reliably provide a comparable level of protection.

6) Each plug used must be appropriately tagged and tested for seal and stability before closure is completed.

7) The well to be closed must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by permit condition, prior to the placement of the cement ~~plug(s)~~ plugs.

BOARD NOTE: Derived from 40 CFR 146.71~~, as added at 53 Fed. Reg. 28153, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.172 Post-Closure Care

a) The owner or operator of a Class I hazardous waste injection well ~~shall~~ must prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) of this Section and is specified by permit condition. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

1) The owner or operator ~~shall~~ must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.

2) The owner or operator ~~shall~~ must submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required ~~under~~ pursuant to Section 730.171(c).

3) The plan must assure financial responsibility, as required in Section 730.173.

4) The plan must include the following information:

A) The pressure in the injection zone before injection began;

B) The anticipated pressure in the injection zone at the time of closure;

C) The predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;

D) ~~Predicted~~ The predicted position of the waste front at closure;

E) The status of any cleanups required ~~under~~ pursuant to Section 730.164; and

F) The estimated cost of proposed post-closure care.

5) At the request of the owner or operator, or on its own initiative, the Agency may modify the post-closure plan after submission of the closure report following the procedures in 35 Ill. Adm. Code 705.128.

b) The owner or operator ~~shall~~ must undertake each of the following activities:

1) ~~Continue~~ It must continue and complete any cleanup action required ~~under~~ pursuant to Section 730.164, if applicable;

2) ~~Continue~~ It must continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The Agency ~~shall~~ must extend the period of post-closure monitoring if it determines in writing that the well may endanger a USDW;

3) ~~Submit~~ It must submit a survey plat to the local zoning authority designated by permit condition. The plat must indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat must be submitted to USEPA, Region ~~V~~ 5;

4) ~~Notify~~ It must notify the Illinois Department of Natural Resources, Office of Mines and Minerals, the State Department of Public Health, and any unit of local government authorized to grant permits under the Water Well Construction Code ~~(Ill. Rev. Stat. ch. 111½, par. 116.111 et seq.)~~[415 ILCS 30] in the area where the well is located as to the depth and location of the well and the confining zone; and

5) ~~Retain,~~ It must retain, for a period of three years following well closure, records reflecting the nature, composition, and volume of all injected fluids. Owners or operators ~~shall~~ must deliver the records to the Agency at the

conclusion of the retention period.

c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, ~~shall~~ must record a notation on the deed to the facility property or on some other instrument ~~which~~ that is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

1) The fact that land has been used to manage hazardous waste;

2) The names of the Illinois Department of Mines and Minerals and the local zoning authority with which the plat was filed, as well as the address of USEPA Region ~~V Environmental Protection Agency~~ 5; and

3) The type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.

d) In addition to the requirements stated in this Section, each owner of a Class I hazardous waste injection well must comply with ~~the Responsible Property Transfer Act of 1988 (Ill. Rev. Stat. 198891 Supp. ch. 30, par. 901 et seq.)~~ any other State or federal law or local ordinance that requires the reporting of any potential environmental or physical impairment of real property to subsequent or prospective owners.

BOARD NOTE: The Responsible Property Transfer Act of 1988 [765 ILCS 90] (RPTA) formerly required the disclosure and recordation of any environmental impairment of real property in Illinois. The General Assembly repealed that statute in P.A. 92-299, Section 5, effective August 9, 2001. Section 10 of that repeal provided for continued maintenance of documents prepared and recorded under RPTA prior to its repeal.

BOARD NOTE: Derived from 40 CFR 146.72~~, as added at 53 Fed. Reg. 28152, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 730.173 Financial Responsibility for Post-Closure Care

The owner or operator ~~shall~~ must demonstrate and maintain financial responsibility for post-closure care by using a trust fund, surety bond, letter of credit, financial test, insurance, or corporate guarantee that meets the specifications for the mechanisms and instruments revised as appropriate to cover closure and post-closure care in Subpart G of 35 Ill. Adm. Code 704~~.Subpart G~~. The amount of the funds available must be no less than the amount identified in Section 730.172(a)(4)(F). The obligation to maintain financial responsibility for post-closure care survives the termination of a permit or the cessation of injection. The requirement to maintain financial responsibility is enforceable whether or not the requirement is a condition of the permit.

BOARD NOTE: Derived from 40 CFR 146.73~~, as added at 53 Fed. Reg. 28154, July 26, 1988~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 733
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

SUBPART A: GENERAL

Section

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

SUBPART F: IMPORT REQUIREMENTS

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

AUTHORITY: Implementing Sections 7.2~~,~~ and 22.4 ~~and 22.23a~~ and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, ~~22.23a,~~ and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-8 at 29 Ill. Reg. 6058, effective April 13, 2005; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

a) This Part establishes requirements for managing the following:

1) Batteries, as described in Section 733.102;

2) Pesticides, as described in Section 733.103;

3) ~~Thermostats,~~ Mercury-containing equipment, as described in Section 733.104; and

4) Lamps, as described in Section 733.105~~; and~~.

~~5) Mercury-containing equipment, as described in Section 733.106.~~

~~BOARD NOTE: Subsection (a)(5) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

b) This Part provides an alternative set of management standards in lieu of regulation ~~under~~ pursuant to 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728.

c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.102 Applicability~~.~~: Batteries

a) Batteries covered under this Part.

1) The requirements of this Part apply to persons managing batteries, as described in Section 733.109, except those listed in subsection (b) of this Section.

2) Spent lead-acid batteries that are not managed under Subpart G of 35 Ill. Adm. Code 726~~. Subpart G~~, are subject to management under this Part.

b) Batteries not covered under this Part. The requirements of this Part do not apply to persons managing the following batteries:

1) Spent lead-acid batteries that are managed under Subpart G of 35 Ill. Adm. Code 726~~.Subpart G.~~;

2) Batteries, as described in Section 733.109, that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section~~.~~; or

3) Batteries, as described in Section 733.109, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~.

c) Generation of waste batteries.

1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2) An unused battery becomes a waste on the date the handler decides to discard it.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.103 Applicability~~.~~: Pesticides

a) Pesticides covered under this Part. The requirements of this Part apply to persons managing pesticides, as described in Section 733.109, that meet the following conditions, except those listed in subsection (b) of this Section:

1) Recalled pesticides, as follows:

A) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under Section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136q(b)), including, but not limited to those owned by the registrant responsible for conducting the recall; or

B) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant~~.~~; or

2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

b) Pesticides not covered under this Part. The requirements of this Part do not apply to

persons managing the following pesticides:

1) Recalled pesticides described in subsection (a)(1) of this Section~~,~~ and unused pesticide products described in subsection (a)(2) of this Section~~,~~ that are managed by farmers in compliance with 35 Ill. Adm. Code 722.170. (35 Ill. Adm. Code 722.170 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 35 Ill. Adm. Code 721.107(b)(3).);

2) Pesticides not meeting the conditions set forth in subsection (a) of this Section must be managed in compliance with the hazardous waste regulations in 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728;

3) Pesticides that are not wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section or those that are not wastes as described in subsection (d) of this Section; and

4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is a waste (see subsection (b)(3) of this Section) and either it is listed in Subpart D of 35 Ill. Adm. Code 721~~. Subpart D~~ or it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721~~. Subpart C~~.

c) When a pesticide becomes a waste.

1) A recalled pesticide described in subsection (a)(1) of this Section becomes a waste on the first date on which both of the following conditions apply:

A) The generator of the recalled pesticide agrees to participate in the recall; and

B) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

2) An unused pesticide product described in subsection (a)(2) of this Section becomes a waste on the date the generator decides to discard it.

d) Pesticides that are not wastes. The following pesticides are not wastes:

1) Recalled pesticides described in subsection (a)(1) of this Section, provided that either of the following conditions exist:

A) The person conducting the recall has not made a decision to discard

the pesticide (e.g., burn it for energy recovery). Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 35 Ill. Adm. Code 721.102; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including those of this Part. This pesticide remains subject to the requirements of FIFRA; or

B) The person conducting the recall has made a decision to use a management option that, under 35 Ill. Adm. Code 721.102, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Part. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA~~.~~; and

2) Unused pesticide products described in subsection (a)(2) of this Section, if the generator of the unused pesticide product has not decided to discard them (e.g., burn for energy recovery). These pesticides remain subject to the requirements of FIFRA.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.104 Applicability~~.~~: Mercury Thermostats

a) ~~Thermostats~~ Mercury-containing equipment covered under this Part. The requirements of this Part apply to persons managing ~~thermostats,~~ mercury-containing equipment, as described in Section 733.109, except those listed in subsection (b) of this Section.

b) ~~Thermostats~~ Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following ~~thermostats~~ mercury-containing equipment:

1) ~~Thermostats~~ Mercury-containing equipment that ~~are~~ is not yet ~~wastes~~ waste ~~under~~ pursuant to 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when ~~thermostats become wastes.~~ mercury-containing equipment becomes waste;

2) ~~Thermostats~~ Mercury-containing equipment that ~~are~~ is not hazardous waste. ~~A thermostat~~ Mercury-containing equipment is a hazardous waste if it is a waste (see subsection (b)(1) of this Section) and it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C.~~ or is listed in Subpart D of 35 Ill. Adm. Code 721; and

3) Equipment and devices from which the mercury-containing components have been removed.

c) Generation of waste ~~thermostats~~ mercury-containing equipment.

1) A used ~~thermostat~~ mercury-containing equipment becomes a waste on the date it is discarded ~~(e.g., sent for reclamation)~~.

2) ~~An unused thermostat~~ Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.105 Applicability~~.~~: Lamps~~.~~

a) Lamps covered under this Part. The requirements of this Part apply to persons that manage lamps, as described in Section 733.109, except those listed in subsection (b) of this Section.

b) Lamps not covered under this Part. The requirements of this Part do not apply to persons that manage the following lamps:

1) Lamps that are not yet wastes under 35 Ill. Adm. Code 721, as provided in subsection (c) of this Section~~.~~; and

2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721~~. Subpart C~~.

c) Generation of waste lamps.

1) A used lamp becomes a waste on the date it is discarded.

2) An unused lamp becomes a waste on the date the handler decides to discard it.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.106 Applicability~~.~~: Mercury-Containing Equipment (Repealed)

~~a) Mercury-containing equipment covered under this Part. The requirements of this Part apply to persons managing mercury-containing equipment as described in Section 733.109, except those listed in subsection (b) of this Section.~~

~~b) Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing~~

~~equipment:~~

~~1) Mercury-containing equipment that is not yet a waste under 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when mercury-containing equipment becomes a waste.~~

~~2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.~~

~~c) Generation of waste mercury-containing equipment.~~

~~1) Used mercury-containing equipment becomes a waste on the day it is discarded.~~

~~2) Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.~~

~~BOARD NOTE: This Section 733.106 was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Repealed at 30 Ill. Reg. _____, effective _____)

Section 733.108 Applicability~~—~~: Household and Conditionally Exempt Small Quantity Generator Waste

a) A person that manages any of the wastes listed below may, at its option, manage the waste under the requirements of this Part~~:~~.

1) Household wastes that are exempt under 35 Ill. Adm. Code 721.104(b)(1) and which are also of the same type as the universal wastes defined at Section 733.109; or

2) Conditionally exempt small quantity generator wastes that are exempt under 35 Ill. Adm. Code 721.105 and are also of the same type as the universal wastes defined at Section 733.109.

b) A person that commingles the wastes described in subsections (a)(1) and (a)(2) of this Section together with universal waste regulated under this Part ~~shall~~ must manage the commingled waste under the requirements of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.109 Definitions

"Ampule" means an airtight vial made of glass, plastic, metal, or any combination of

these materials.

"Battery" means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Sections 733.113 (a) and (c) and 733.133 (a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y).

"Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

"Lamp" or "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infra-red regions of the electromagnetic spectrum. Common examples of universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~thermostats,~~ mercury-containing equipment, or lamps~~, or mercury-containing equipment~~, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which ~~5,000 kilograms or more total of universal waste is accumulated~~ the 5,000-kilogram limit is met or exceeded.
~~BOARD NOTE: Mercury-containing equipment was added to this definition of "large quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

"Mercury-containing equipment" means ~~mercury switches and mercury relays and scientific instruments and instructional equipment containing mercury added during their manufacture.~~ a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

~~BOARD NOTE: The definition of "mercury-containing equipment" was pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

~~"Mercury-containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.~~
~~BOARD NOTE: The definition of "mercury-containing lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

~~*"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays and mercury contact relays.*~~ ~~[415 ILCS 5/3.283]~~
~~BOARD NOTE: The definition of "mercury relay" was added pursuant to Section 3.283 of the Act [415 ILCS 5/3.283] (See P.A. 93-964, effective August 20, 2004).~~

~~*"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.*~~ ~~[415 ILCS 5/3.284]~~
~~BOARD NOTE: The definition of "mercury switch" was added pursuant to Section 3.284 of the Act [415 ILCS 5/3.284] (See P.A. 93-964, effective August 20, 2004).~~

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties, owned by the same person but connected by a right-of-way that that person controls and to which the public does not have access, are also considered on-site property.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

> It is a new animal drug under ~~Section~~ section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA~~;~~) (21 USC 321(v)), incorporated by

reference in 35 Ill. Adm. Code 720.111;

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA ~~Section~~ section 512(j) (21 USC 360b(j)), incorporated by reference in 35 Ill. Adm. Code 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA ~~Section~~ section 201(w) (21 USC 321(w)), incorporated by reference in 35 Ill. Adm. Code 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 273.6 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug.". ~~:~~ This is very similar to the language of ~~Section~~ section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA~~;~~) (7 USC 136(u)). The three exceptions, taken together, appear intended not to include as "pesticide" any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this Section) that does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~thermostats,~~ mercury-containing equipment, or lamps~~, or mercury-containing equipment~~, calculated collectively) at any time. ~~BOARD NOTE: Mercury-containing equipment was added to this definition of "small quantity handler of universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of Section 733.113(c)(2) or 733.133(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103;

~~Thermostats,~~ Mercury-containing equipment, as described in Section 733.104; and

Lamps, as described in Section 733.105 ~~and~~.

~~Mercury-containing equipment as described in Section 733.106. BOARD NOTE: Mercury-containing equipment was added to this definition of "universal waste" pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

"Universal waste handler" means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Universal waste handler does not mean:

A person that treats (except ~~under~~ pursuant to the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.110 Applicability

This Subpart B applies to small quantity handlers of universal waste (as defined in Section 733.109).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.113 Waste Management

a) Universal waste batteries. A small quantity handler of universal waste ~~shall~~ must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste ~~shall~~ must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions~~.~~;

2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

A) Sorting batteries by type;

B) Mixing battery types in one container;

C) Discharging batteries so as to remove the electric charge;

D) Regenerating used batteries;

E) Disassembling batteries or battery packs into individual batteries or cells;

F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries~~.~~; and

3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed ~~above~~ in subsection (a)(2) of this Section, ~~shall~~ must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the hazardous

electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A small quantity handler of universal waste ~~shall~~ must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) of this Section;

3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725~~.Subpart J~~, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste ~~thermostats and~~ mercury-containing equipment. A small quantity handler of universal waste ~~shall~~ must manage universal waste ~~thermostats and~~ mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste ~~shall contain~~ must place in a container any universal waste ~~thermostat or~~ mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable

conditions ~~in a container~~. The container must be closed~~,~~; must be structurally sound~~,~~; must be compatible with the contents of the ~~thermostat or mercury-containing equipment~~ device~~,~~; ~~and~~ must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste ~~thermostats or~~ mercury-containing equipment provided the handler follows each of the following procedures:

A) It removes and manages the ampules in a manner designed to prevent breakage of the ampules;

B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules~~,~~ from ~~the~~ that containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.

~~3~~4) Required hazardous waste determination and further waste management.

A) A small quantity handler of universal waste that removes mercury-containing ampules from ~~thermostats or~~ mercury-containing equipment ~~shall~~ or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining ~~thermostat units or~~ mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the mercury, residues, or other waste and ~~shall~~ must manage it ~~as subject to~~ in compliance with 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste

regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A small quantity handler of universal waste ~~shall~~ must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste lamps ~~shall~~ must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions~~.~~;

2) A small quantity handler of universal waste lamps ~~shall~~ must immediately clean up and place in a container any lamp that is broken, and the small quantity handler ~~shall~~ must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions~~.~~; and

3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system ~~shall~~ must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an ~~8-hour~~ eight-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any

certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of ~~40 CFR 262.34~~ 35 Ill. Adm. Code 722.134, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling, and transportation.

~~BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.114 Labeling and Marking

A small quantity handler of universal waste ~~shall~~ must label or mark the universal waste to identify the type of universal waste, as follows:

a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Batteries," ~~;~~ "Waste Batteries," ~~;~~ or "Used Batteries" ~~;~~.

b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly, as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides.";

c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides.";

d) Universal waste mercury-containing equipment and universal waste thermostat labeling:

1) Universal waste mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

~~1~~2) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostats," or "Waste Mercury Thermostats," or "Used Mercury Thermostats"~~; and~~.

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste--Lamps," "Waste Lamps," or "Used Lamps."

~~f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste--Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."~~

~~BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.115 Accumulation Time Limits

a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~below~~ of this Section are met.

b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal.

c) A small quantity handler of universal waste that accumulates universal waste ~~shall~~ must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:

1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3) Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;

4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5) Placing the universal waste in a specific accumulation area and identifying

the earliest date that any universal waste in the area became a waste or was received; or

6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.116 Employee Training

A small quantity handler of universal waste ~~shall~~ must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the ~~type(s)~~ types of universal waste handled at the facility.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.117 Response to Releases

a) A small quantity handler of universal waste ~~shall~~ must immediately contain all releases of universal waste and other residues from universal waste.

b) A small quantity handler of universal waste ~~shall~~ must determine whether any material resulting from the release is hazardous waste, and if so, ~~shall~~ must manage the hazardous waste in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the material resulting from the release and ~~shall~~ must manage it in compliance with 35 Ill. Adm. Code 722.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.118 Off-Site Shipments

a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

b) If a small quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and ~~shall~~ must comply with the transporter requirements of ~~733.~~Subpart D of this Part while transporting the universal waste.

c) If a universal waste being offered for off-site transportation meets the definition of hazardous ~~materials~~ material under USDOT regulation 49 CFR~~171 through 180~~ 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill.

Adm. Code 720.111(b), a small quantity handler of universal waste ~~shall~~ must package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 ~~through~~ (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers--General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler ~~shall~~ must ensure that the receiving handler agrees to receive the shipment.

e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler ~~shall~~ must do either of the following:

1) Receive the waste back when notified that the shipment has been rejected~~,~~; or

2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it ~~shall~~ must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler ~~shall~~ must perform either of the following actions:

1) Send the shipment back to the originating handler~~,~~; or

2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler ~~shall~~ must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, ~~state~~ State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.120 Exports

A small quantity handler of universal waste that sends universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722~~.Subpart H~~) shall do the following:

a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;

b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722~~.Subpart E~~; and

c) Provide a copy of the USEPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.130 Applicability

This ~~subpart~~ Subpart C applies to large quantity handlers of universal waste (as defined in Section 733.109).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.132 Notification

a) Written notification of universal waste management.

1) Except as provided in subsections (a)(2) and (a)(3) of this Section, a large quantity handler of universal waste ~~shall~~ must have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify ~~under~~ pursuant to this Section.

3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by federal 40 CFR 165, is not required to notify for those recalled universal waste pesticides ~~under~~ pursuant to this Section.

b) This notification must include the following:

1) The universal waste handler's name and mailing address;

2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

3) The address or physical location of the universal waste management activities;

4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, ~~thermostats~~ mercury-containing equipment, or lamps ~~or mercury-containing equipment~~); and

5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time ~~and the types of universal waste (e.g, batteries, pesticides, thermostats, lamps or mercury-containing equipment) the handler is accumulating above this quantity~~.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained that the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination.

~~BOARD NOTE: Mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.133 Waste Management

a) Universal waste batteries. A large quantity handler of universal waste ~~shall~~ must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste ~~shall~~ must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

A) Sorting batteries by type;

B) Mixing battery types in one container;

C) Discharging batteries so as to remove the electric charge;

D) Regenerating used batteries;

E) Disassembling batteries or battery packs into individual batteries or cells;

F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries.

3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed ~~above shall~~ in subsection (a)(2) of this Section must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified

in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A large quantity handler of universal waste ~~shall~~ must manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) of this Section;

3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725~~.Subpart J~~, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste ~~thermostats and~~ mercury-containing equipment. A large quantity handler of universal waste ~~shall~~ must manage universal waste ~~thermostats and~~

mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste ~~shall contain~~ must place in a container any universal ~~waste thermostat or~~ mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~in a container~~. The container must be closed~~,~~; must be structurally sound~~,~~; must be compatible with the contents of the ~~thermostat and/or mercury-containing equipment,~~ device; ~~and~~ must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste ~~thermostats or~~ mercury-containing equipment, provided the handler follows each of the following procedures:

   A) It removes the ampules in a manner designed to prevent breakage of the ampules;

   B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

   C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules~~,~~ from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

   D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

   E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

   F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.

~~3~~4) Required hazardous waste determination and further waste management.

A) A large quantity handler of universal waste that removes mercury-containing ampules from ~~thermostats or~~ mercury-containing equipment ~~shall~~ or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.~~Subpart C~~:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining ~~thermostat units or~~ mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the mercury, residues, or other waste and ~~shall~~ must manage it ~~as subject to~~ in compliance with 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance

with applicable federal, State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A large quantity handler of universal waste ~~shall~~ must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste lamps ~~shall~~ must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions~~.~~;

2) A large quantity handler of universal waste lamps ~~shall~~ must immediately clean up and place in a container any lamp that is broken, and the large quantity handler ~~shall~~ must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions~~.~~; and

3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system ~~shall~~ must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of ~~40 CFR 262.34~~ 35 Ill. Adm. Code 722.134, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

~~BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a]. Additionally, mercury-containing equipment was added to this Section pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.134 Labeling and Marking

A large quantity handler of universal waste ~~shall~~ must label or mark the universal waste to identify the type of universal waste, as follows:

a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Batteries”; or “Waste Batteries”; or “Used

Batteries.";

b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides.";

c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under pursuant to the USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the pesticide collection program; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides.";

d) Universal waste mercury-containing equipment and universal waste thermostat labeling:

1) Mercury-containing equipment (*i.e.*, each device) or a container in which the equipment is contained must be labeled or marked clearly with any of the following phrases: "Universal Waste—Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

d2) Universal A universal waste thermostats (i.e., each thermostat) mercury-containing thermostat or a container or tank in which the containing only universal waste mercury-containing thermostats are contained must may be labeled or marked clearly with any one of the following phrases:

"Universal Waste-Mercury Thermostats," or "Waste Mercury Thermostats," or "Used Mercury Thermostats"; and.

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste-Lamps," "Waste Lamps" or "Used Lamps."

f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste- Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

BOARD NOTE: Subsection (f) of this Section was added pursuant to Sections 3.283, 3.284, and 22.23b of the Act [415 ILCS 5/3.283, 3.284, and 22.23b] (See P.A. 93-964, effective August 20, 2004).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.135 Accumulation Time Limits

a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) below of this Section are met.

b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

c) A large quantity handler of universal waste shall must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:

1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3) Maintaining an on-site inventory system that identifies the date the universal

waste being accumulated became a waste or was received;

4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.136 Employee Training

A large quantity handler of universal waste ~~shall~~ must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.137 Response to Releases

a) A large quantity handler of universal waste ~~shall~~ must immediately contain all releases of universal waste and other residues from universal waste.

b) A large quantity handler of universal waste ~~shall~~ must determine whether any material resulting from the release is hazardous waste, and if so, ~~shall~~ must manage the hazardous waste in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. The handler is considered the generator of the material resulting from the release, and is subject to 35 Ill. Adm. Code 722.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.138 Off-Site Shipments

a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

b) If a large quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-

transportation activities and ~~shall~~ must comply with the transporter requirements of ~~733.~~Subpart D of this Part while transporting the universal waste.

c) If a universal waste being offered for off-site transportation meets the definition of hazardous ~~materials~~ material under USDOT regulation 49 CFR ~~171 through 180~~ 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a large quantity handler of universal waste ~~shall~~ must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 ~~through~~ (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers--General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180~~;~~ (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler ~~shall~~ must ensure that the receiving handler agrees to receive the shipment.

e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler ~~shall~~ must do either of the following:

1) Receive the waste back when notified that the shipment has been rejected~~,~~; or

2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it ~~shall~~ must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler ~~shall~~ must perform either of the following actions:

1) Send the shipment back to the originating handler~~,~~; or

2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler ~~shall~~ must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, ~~state~~ State, or local solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.139 Tracking Universal Waste Shipments

a) Receipt of shipments. A large quantity handler of universal waste ~~shall~~ must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1) The name and address of the originating universal waste handler or foreign shipper from ~~whom~~ which the universal waste was sent;

2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);

3) The date of receipt of the shipment of universal waste.

b) Shipments off-site. A large quantity handler of universal waste ~~shall~~ must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign destination to ~~whom~~ which the universal waste was sent;

2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and

3) The date the shipment of universal waste left the facility.

c) Record retention.

1) A large quantity handler of universal waste ~~shall~~ must retain the records described in subsection (a) ~~above~~ of this Section for at least three years from the date of receipt of a shipment of universal waste.

2) A large quantity handler of universal waste ~~shall~~ must retain the records described in subsection (b) ~~above~~ of this Section for at least three years from the date a shipment of universal waste left the facility.

~~BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.140 Exports

A large quantity handler of universal waste that sends universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722~~.Subpart H~~) ~~shall~~ must do the following:

a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;

b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722~~.Subpart E~~; and

c) Provide a copy of the USEPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.150 Applicability

This Subpart D applies to universal waste transporters (as defined in Section 733.109).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.151 Prohibitions

a) A universal waste transporter is prohibited from the following:

1) Disposing of universal waste; and

2) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (b).

b) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:

1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system ~~shall~~ must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

A) Name and address of the transporter;

B) Estimated monthly amount of lamps crushed; and

C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (b)(1) of this Section;

3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of ~~40 CFR 262.34~~ 35 Ill. Adm. Code 722.134, and has available equipment necessary to comply with this requirement;

4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

5) The transporter ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures,

including transfer of mercury from containment devices to appropriate containers; and

6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

~~BOARD NOTE: Subsection (b) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.152 Waste Management

a) A universal waste transporter ~~shall~~ must comply with all applicable USDOT regulations in 49 CFR 171 ~~through~~ (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers--General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b) for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b). For purposes of the USDOT regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of 35 Ill. Adm. Code 722. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the USDOT regulations.

b) Some universal waste materials are regulated by the USDOT as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2 (Hazardous Materials Classes and Index to Hazard Class Definitions), incorporated by reference in Section 720.111(b). As universal waste shipments do not require a manifest under 35 Ill. Adm. Code 722, they may not be described by the USDOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," ~~;~~ nor may the hazardous material's proper shipping name be modified by adding the word "waste." ~~:~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.153 Accumulation Time Limits

a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and ~~shall~~ must comply with the applicable requirements of ~~733.~~Subpart B or C of this Part while storing the universal waste.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.154 Response to Releases

a) A universal waste transporter ~~shall~~ must immediately contain all releases of universal waste and other residues from universal wastes.

b) A universal waste transporter ~~shall~~ must determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705~~,~~ and 720 through ~~726, and~~ 728. If the waste is determined to be a hazardous waste, the transporter is subject to 35 Ill. Adm. Code 722.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.155 Off-site Shipments

a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

b) If the universal waste being shipped off-site meets USDOT's definition of hazardous ~~materials~~ material under 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b), the shipment must be properly described on a shipping paper in accordance with the applicable USDOT regulations under 49 CFR ~~part~~ 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.156 Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case

the transporter is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722~~.Subpart H~~) may not accept a shipment if the transporter knows the shipment does not conform to the USEPA Acknowledgment of Consent. In addition the transporter ~~shall~~ must ensure the following:

a) A copy of the USEPA Acknowledgment of Consent accompanies the shipment; and

b) The shipment is delivered to the facility designated by the person initiating the shipment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section 733.160 Applicability

a) The owner or operator of a destination facility (as defined in Section 733.109) is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 724 through 726, and 728, and the notification requirement under section 3010 of RCRA (42 USC 6930).

b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled ~~shall~~ must comply with 35 Ill. Adm. Code 721.106(c)(2).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.161 Off-Site Shipments

a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it ~~shall~~ must contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility ~~shall~~ must perform either of the following actions:

1) Send the shipment back to the original shipper~~,~~; or

2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility ~~shall~~ must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.

d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or ~~state~~ State solid ~~(nonhazardous)~~ (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [415 ILCS 5] and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or ~~nonhazardous~~ non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.162 Tracking Universal Waste Shipments

a) The owner or operator of a destination facility ~~shall~~ must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign shipper from ~~whom~~ which the universal waste was sent;

2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and

3) The date of receipt of the shipment of universal waste.

b) The owner or operator of a destination facility ~~shall~~ must retain the records described in subsection (a) ~~above~~ of this Section for at least three years from the date of receipt of a shipment of universal waste.

~~BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: IMPORT REQUIREMENTS

Section 733.170 Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this Part immediately after the waste enters the United States, as indicated in subsections (a) through (c) ~~below~~ of this Section:

a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D of this Part.

b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of ~~733.~~Subpart B or C of this Part, as applicable.

c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E of this Part.

d) Persons managing universal waste that is imported from an OECD country as specified in 35 Ill. Adm. Code 722.158(a)(1) are subject to subsections (a) through (c) of this Section, in addition to the requirements of Subpart H of 35 Ill. Adm. Code 722~~.Subpart H~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:

1) If USEPA has already added the waste or category of waste to federal 40 CFR 273: by identical-in-substance rulemaking, under ~~Section~~ Sections 7.2 and 22.4(a) of the Act [415 ILCS 5/7.2 and 22.4(a)], 35 Ill. Adm. Code 101 and 102, and 35 Ill. Adm. Code 720.120; or

2) If USEPA has not added the waste or category of waste to federal 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act [415 ILCS 5/22.4(b) and 27], 35 Ill. Adm. Code 101 and 102, this Subpart G, and 35 Ill. Adm. Code 720.120 and 720.123.

BOARD NOTE: The Board cannot add a hazardous waste or category of

hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.

b) Petitions for identical-in-substance rulemaking.

1) Any petition for identical-in-substance rulemaking under subsection (a)(1) ~~above~~ of this Section must include a copy of the Federal Register ~~notice(s)~~ notices of adopted amendments in which USEPA promulgated the ~~addition(s)~~ additions to federal 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register ~~notice(s)~~ notices.

2) If the petitioner desires expedited Board consideration of the proposed amendments to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.

c) Petitions for general rulemaking.

1) To be successful using the general rulemaking procedure under subsection (a)(2) ~~above~~ of this Section, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:

A) It would be appropriate for the waste or category of waste;

B) It would improve management practices for the waste or category of waste; and

C) It would improve implementation of the hazardous waste program.

2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.

3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) ~~above~~ of this Section.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 733.181 Factors for Petitions to Include Other Wastes

a) Hazardous waste listing or characteristics. The waste or category of waste, as generated by a wide variety of generators, is listed in Subpart D of 35 Ill. Adm. Code 721~~.Subpart D~~, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721~~.Subpart C~~. (When a characteristic waste is added to the universal waste regulations of this Part by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 35 Ill. Adm. Code 720.110 and Section 733.109 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Part;

b) Generation by a wide variety of types of facilities. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, or government organizations, as well as large industrial facilities);

c) Generation by a large number of generators. The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

d) Collection systems to ensure close stewardship. Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

e) Waste management standards and risk to human health and the environment. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Sections 733.113, 733.133, and 733.152; or applicable USDOT requirements) would be protective of human health and the environment during accumulation and transport;

f) Increased likelihood of diversion of waste from non-hazardous waste management systems. Regulation of the waste or category of waste ~~under~~ pursuant to this Part will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA (42 USC 6921-6939e);

g) Improved implementation of the hazardous waste program. Regulation of the waste or category of waste ~~under~~ pursuant to this Part will improve implementation of and compliance with the hazardous waste regulatory program; or

h) Such other factors as may be appropriate.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
~~SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS~~
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 738
HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

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738.101 Purpose, Scope, and Applicability
738.102 Definitions
738.103 Dilution Prohibited as a Substitute for Treatment
738.104 Case-by-Case Extensions of an Effective Date
738.105 Waste Analysis
738.106 Electronic Reporting

SUBPART B: PROHIBITIONS ON INJECTION

Section
738.110 Waste-Specific Prohibitions: Solvent Wastes
738.111 Waste-Specific Prohibitions: Dioxin-Containing Wastes
738.112 Waste-Specific Prohibitions: California List Wastes
738.114 Waste-Specific Prohibitions: First Third Wastes
738.115 Waste-Specific Prohibitions: Second Third Wastes
738.116 Waste-Specific Prohibitions: Third Third Wastes
738.117 Waste-Specific Prohibitions: Newly-Listed Wastes
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SUBPART C: PETITION STANDARDS AND PROCEDURES

Section
738.120 Petitions to Allow Injection of a Prohibited Waste
738.121 Required Information to Support Petitions
738.122 Submission, Review, and Approval or Denial of Petitions
738.123 Review of Adjusted Standards
738.124 Termination of Approved Petition

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

SOURCE: Adopted in R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 738.106 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.122 Submission, Review, and Approval or Denial of Petitions

a) Any petition submitted to the Board, pursuant to Section 738.120(a) of this Part, must include the following:

1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;

2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;

3) Such additional information as the Board requires to support the petition ~~under~~ pursuant to Section 738.120 and Section 738.121 of this Part; and

4) This statement signed by the petitioner or an authorized representative:

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

b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.

c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).

d) Upon request by any petitioner who obtains an adjusted standard for a well ~~under~~ pursuant to this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10 years.

e) Each adjusted standard granted ~~under~~ pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

SUBPART C: STANDARDS FOR USED OIL GENERATORS

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section
739.160 Applicability
739.161 Restriction on Burning
739.162 Notification
739.163 Rebuttable Presumption for Used Oil
739.164 Used Oil Storage
739.165 Tracking
739.166 Notices
739.167 Management of Residues

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section
739.170 Applicability
739.171 Prohibitions
739.172 On-Specification Used Oil Fuel
739.173 Notification
739.174 Tracking
739.175 Notices

SUBPART I: DISPOSAL OF USED OIL

Section
739.180 Applicability
739.181 Disposal
739.182 Use As a Dust Suppressant

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

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under

this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728.

a) Used oil. Used oil is presumed to be recycled, unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

b) Mixtures of used oil and hazardous waste.

1) Listed hazardous waste.

A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728, rather than as used oil under this Part.

B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.

ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that exhibits a hazardous waste characteristic identified in Subpart C

of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste that is listed in Subpart D of this Part solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:

A) Except as provided in subsection (b)(2)(C) of this Section, regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721; or

B) Except as provided in subsection (b)(2)(C) of this Section, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.

C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.

3) Conditionally exempt small quantity generator hazardous waste. A mixture of used oil and conditionally exempt small quantity generator hazardous waste regulated under 35 Ill. Adm. Code 721.105 is subject to regulation as used oil under this Part.

c) Materials containing or otherwise contaminated with used oil.

1) Except as provided in subsection (c)(2) of this Section, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:

A) The material is not used oil, so it is not subject to this Part, and

B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, ~~705,~~ and 720 through ~~726, and~~ 728.

2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.

3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.

d) Mixtures of used oil with products.

1) Except as provided in subsection (d)(2) of this Section, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.

2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C of this Part.

e) Materials derived from used oil.

1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.

3) Except as provided in subsection (e)(4) of this Section, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal:

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728 if the materials are listed or identified as hazardous waste.

4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.

f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.

2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.

4) Except as provided in subsection (g)(5) of this Section, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.

5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does

not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).

6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.

h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.

i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 739.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

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

(Source: Added at 30 Ill. Reg. _____, effective _____)

SUBPART I: DISPOSAL OF USED OIL

Section 739.181 Disposal

a) Disposal of hazardous used oils. A used oil that is identified as a hazardous waste and which cannot be recycled in accordance with this Part must be managed in accordance with the hazardous waste management requirements of 35 Ill. Adm. Code 702, 703, and 720 through ~~726, and~~ 728.

b) Disposal of ~~nonhazardous~~ non-hazardous used oils. A used oil that is not a hazardous waste and cannot be recycled under this Part must be disposed of in

accordance with the requirements of 35 Ill. Adm. Code 807 through 815 and 40 CFR 257 and 258.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
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
810.105 Electronic Reporting

AUTHORITY: Implementing Sections ~~5,~~ 7.2, 21, 21.1, 22, 22.17, and ~~28.1~~ 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/~~5,~~ 7.2, 21, 21.1, 22, 22.17, ~~28.1~~ 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

Section 810.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

1) Code of Federal Regulations:

40 CFR 3.2, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

40 CFR 3.3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 (2005) (Monitoring Requirements for Unregulated Contaminants).

Appendix II to 40 CFR 258 (2005), as corrected at 70 Fed. Reg. 44150 (August 1, 2005) (List of Hazardous and Organic Constituents).

2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

Auditing Standards--Current Text, August 1, 1990 Edition.

3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, "Test Method for Collection of Gross Samples of Coal," approved 1976.

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985.

4) GASB. Government Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18.

5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattville, Maryland 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986).

6) U.S. Government Printing Office, Washington, D.C. 20402, Ph: 202-783-3238:

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third

Edition, 1986; Revision 6, January 2005), as amended by Update I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1).

b) This incorporation includes no later amendments or editions.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 810.105 Electronic Reporting

a) Scope and Applicability.

1) The USEPA, the Board, or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:

A) To USEPA directly under Title 40 of the Code of Federal Regulations; or

B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.

2) Electronic reporting under this Section can begin only after USEPA has first done as follows:

A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or

B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.

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

A) Any document submitted via fascimile;

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

C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.

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

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

b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 810.104.

c) Procedures for submission of electronic documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:

1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and

2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2) of this Section.

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

d) Procedures for submission of electronic documents to the Board or the Agency.

1) The Board or the Agency may, but is not required to, establish procedures

for the electronic submission of documents that meet the requirements of CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act [5 ILCS 100/5].

2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of such approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act [415 ILCS 5] to accept documents filed electronically.

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

e) Effects of submission of an electronic document.

1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.

3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

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

f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

1) The Administrative Procedure Act [5 ILCS 100];

2) The Freedom of Information Act [5 ILCS 140];

3) The State Records Act [5 ILCS 160];

4) The Electronic Commerce Security Act [5 ILCS 175];

5) The Environmental Protection Act [415 ILCS 5];

6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) of this Section will create any right or privilege to submit any document as an electronic document.

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

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

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

SUBPART B: INERT WASTE LANDFILLS

Section

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

SUBPART G: FINANCIAL ASSURANCE

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
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Illustration I	Letter from Chief Financial Officer

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.

AUTHORITY: Implementing Sections ~~5,~~ 7.2, 21, 21.1, 22, 22.17, and ~~28.1~~ 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/~~5,~~ 7.2, 21, 21.1, 22, 22.17, ~~28.1~~ 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg.15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg.11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg.6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

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, even if such information is not required by 35 Ill. Adm. Code 812 or 813:

a) Any location restriction demonstration required by Section 811.302(e) and 35 Ill. Adm. Code 812.109, 812.110, 812.303, and 812.305;

b) Inspection records, training procedures, and notification procedures required by Section 811.323;

c) Gas monitoring results and any remediation plans required by Section 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 and 35 Ill. Adm. Code 812.317, 813.501, and 813.502;

f) Closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 811.110 and 811.111, and 35 Ill. Adm. Code 812.114(h), 812.115, and 812.313; 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)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 811.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.326 Implementation of the corrective action program at MSWLF Units

a) Based on the schedule established ~~under section~~ pursuant to Section 811.325(d) for initiation and completion of corrective action, the owner or operator ~~shall~~ must fulfill the following requirements:

1) ~~Establish~~ It must establish and implement a corrective action groundwater monitoring program that fulfills the following requirements:

A) At a minimum, ~~meets~~ the program must meet the requirements of an assessment monitoring program ~~under~~ pursuant to Section 811.319(b);

B) ~~Indicates~~ The program must indicate the effectiveness of the remedy; and

C) ~~Demonstrates~~ The program must demonstrate compliance with ~~ground-water~~ groundwater protection ~~standard~~ standards pursuant to subsection (e) of this Section.

2) ~~Implement~~ It must implement the remedy selected pursuant to Section 811.325.

3) ~~Take~~ It must take any interim measures necessary to ensure the adequate 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~~ must 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~~ must fulfill the following requirements:

1) ~~Implement~~ It must implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination ~~under~~ pursuant to subsection (c) of this Section.

2) ~~Submit~~ It must submit to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1) of this Section, an application for a significant modification to the permit 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~~ must fulfill the following requirements:

1) ~~Obtain~~ It must obtain the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements ~~under~~ pursuant to Section 811.325(b) cannot be practically achieved with any currently available methods.

2) ~~Implement~~ It must implement alternative measures to control exposure of humans or the environment to residual contamination, as necessary to adequately protect human health and the environment.

3) ~~Implement~~ It must implement alternative measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that ~~are~~ fulfill the following requirements:

A) ~~Technically~~ The measures are technically practicable; and

B) ~~Consistent~~ The measures are consistent with the overall objective of the remedy.

4) ~~Submit~~ It must submit to the Agency, prior to implementing the alternative measures in accordance with subsection (c) of this Section, an application for a significant modification to the permit justifying the alternative measures.

5) For purposes of this Section, a "qualified groundwater scientist" is a scientist or an engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring,

contaminant fate and transport, and corrective action.

d) All solid wastes that are managed pursuant to ~~a remedy required under~~ pursuant to Section 811.325~~,~~ or ~~pursuant to an interim measure required under~~ subsection (a)(3)~~,~~ of this Section ~~shall~~ must be managed by the owner or operator in a manner that fulfills the following requirements:

1) ~~That is protective of~~ It adequately protects human health and the environment; and

2) ~~That~~ It complies with applicable requirements of Part 811.

e) Remedies selected pursuant to Section 811.325 ~~shall~~ must be considered complete when the following requirements are fulfilled:

1) The owner or operator complies with the groundwater quality standards established ~~under~~ pursuant to 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~~ pursuant to Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program ~~under~~ pursuant to 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~~ must specify such an alternative time period by considering the following factors:

A) The extent and concentration of the ~~release(s)~~ releases;

B) The behavior characteristics of the hazardous constituents in the ~~ground-water~~ groundwater;

C) The accuracy of monitoring or modeling techniques, including any seasonal, meterological, or other environmental variabilities that may affect the accuracy; and

D) The characteristics of the ~~ground-water~~ groundwater; and

3) All actions required to complete the remedy have been satisfied.

f) Within 14 days ~~of~~ after the completion of the remedy, the owner or operator ~~shall~~

must submit to the Agency an application for a significant modification of the permit including a certification that the remedy has been completed in compliance with the requirements of subsection (e) of this Section. The certification must be signed by the owner or operator and by a qualified groundwater scientist.

g) Upon Agency review and approval of the certification that the corrective action has been completed, in accordance with subsection (e) of this Section, the Agency ~~shall~~ must release the owner or operator from the financial assurance requirements for corrective action pursuant to Subpart G of this Part.

BOARD NOTE: Requirements of this Section are derived ~~form~~ from 40 CFR 258.58 ~~(1992)~~ (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: FINANCIAL ASSURANCE

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~~ that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

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

"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 to not include intangibles such as goodwill and rights to patents or royalties.

b) Information to be ~~Filed~~ 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) of this Section).

2) Proof that the owner or operator meets the gross revenue test (subsection (d) of this Section).

3) Proof that the owner or operator meets the financial test (subsection (e) of this Section).

c) Bond ~~Without Surety~~ without surety. An owner or operator utilizing self-insurance ~~shall~~ must provide a bond without surety on the forms specified in Appendix A, Illustration G. The owner or operator ~~shall~~ must 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~~ revenue test. The owner or operator ~~shall~~ must 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~~ test.

1) To pass the financial test, the owner or operator ~~shall~~ must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this Section:

A) The owner or operator ~~shall~~ must 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~~ owner's or ~~operator~~ operator's total assets and at least six times the current cost estimate.

B) The owner or operator ~~shall~~ must 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~~ must 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~~ that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

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

f) Updated Information.

1) After the initial submission of items specified in subsections (d) and (e) of this Section, the owner or operator ~~shall~~ must 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) of this Section, the owner or operator ~~shall~~ must 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 operator no longer meets the requirements.

g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) of this Section includes an adverse opinion or a disclaimer of opinion, the Agency ~~shall~~ must disallow the use of self-insurance. If the opinion includes other qualifications, the Agency ~~shall~~ must disallow the use of self-insurance if:

1) The qualifications relate to the numbers ~~which~~ that 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~~ that owns an interest in the owner or operator meets the gross revenue and financial tests. The owner or operator ~~shall~~ must also provide a bond with the parent as surety (Appendix A, Illustration H).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 811.716 Local Government Financial Test

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) of this Section may demonstrate financial assurance up to the amount specified in subsection (d) of this Section.

a) Financial component.

1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) of this Section, as applicable:

A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or

B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:

i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.

2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

3) A unit of local government is not eligible to assure its obligations ~~under~~ pursuant to this Section if any of the following is true:

A) It is currently in default on any outstanding general obligation bonds;

B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;

C) It operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required ~~under~~ pursuant to subsection (a)(2) of this Section. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

4) Terms used in this Section are defined as follows:

"Cash plus marketable securities" is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

"Debt service" is the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" equals total annual revenues minus total annual expenditures.

"Total revenues" include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

"Total expenditures" include all expenditures excluding capital outlays and debt repayment.

b) Public notice component.

1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.

2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.

3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.

4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.

5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in

35 Ill. Adm. Code 810.104, assures compliance with this public notice component.

c) Recordkeeping and reporting requirements.

1) The unit of local government owner or operator must place the following items in the facility's operating record:

A) A letter signed by the unit of local government's chief financial officer that provides the following information:

i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) of this Section;

ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) of this Section; and

iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) of this Section.

B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) of this Section, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) of this Section. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings; and

D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) of this Section or certification that the requirements of General Accounting Standards Board Statement 18, incorporated by reference in Section 810.104, have been met.

2) The items required in subsection (c)(1) of this Section must be placed in the facility operating record as follows:

A) In the case of closure and post-closure care, before November 27, 1997 or prior to the initial receipt of waste at the facility, whichever is later; or

B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.

3) After the initial placement of the items in the facility operating record, the unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

4) The unit of local government owner or operator is no longer required to meet the requirements of subsection (c) of this Section when either of the following occurs:

A) The owner or operator substitutes alternative financial assurance as specified in this Section; or

B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).

5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, and notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained.

6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.

d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure ~~under~~ pursuant to this Section is determined as follows:

1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.

2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities ~~under~~ pursuant to 35 Ill. Adm. Code 704.213, petroleum underground storage tank facilities ~~under~~ pursuant to 40 CFR 280, PCB storage facilities ~~under~~ pursuant to 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities ~~under~~ pursuant to 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure ~~under~~ pursuant to this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.

3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) of this Section.

BOARD NOTE: Derived from 40 CFR 258.74(f) (2005).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 811.719 Corporate Financial Test

An MSWLF owner or operator ~~of an MSWLF~~ that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

a) Financial component.

1) The owner or operator must satisfy one of the following three conditions:

A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

B) A ratio of less than 1.5 comparing total liabilities to net worth; or

C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

2) The tangible net worth of the owner or operator must be greater than:

A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus $10 million except as provided in subsection (a)(2)(B) of this Section.

B) $10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other Tenvironmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.

3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates, and any other environmental obligations covered by a financial test, as described in subsection (c) of this Section.

b) Recordkeeping and reporting requirements.

1) The owner or operator must place the following items into the facility's operating record:

A) A letter signed by the owner's or operator's chief financial officer that includes the following:

i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities ~~under~~ pursuant to this Part; cost estimates required for UIC facilities ~~under~~ pursuant to 35 Ill. Adm. Code 730, if applicable; cost estimates required for petroleum underground storage tank facilities ~~under~~ pursuant to 40 CFR 280, if applicable; cost estimates required for PCB storage facilities ~~under~~ pursuant to 40 CFR 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities ~~under~~ pursuant to 35 Ill. Adm. Code 724 or 725, if applicable; and

ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) of this Section and subsection (a)(2) and (a)(3) of this Section.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency ~~shall~~ must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters ~~which~~ that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator ~~shall~~ must provide alternative financial assurance that meets the requirements of this Section.

C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (b)(1)(B) of this Section or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and ~~shall~~ must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) of this Section, then the letter ~~shall~~ must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least $10 million plus the amount of any guarantees provided.

2) An owner or operator ~~shall~~ must place the items specified in subsection (b)(1) of this Section in the operating record and notify the Agency in writing that these items have been placed in the operating record before

the initial receipt of waste or before February 17, 1999, whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.

BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later." The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

3) After the initial placement of items specified in subsection (b)(1) of this Section in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency ~~shall~~ must provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1) of this Section.

4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:

   A) It substitutes alternative financial assurance, as specified in this Subpart G, that is not subject to these recordkeeping and reporting requirements; or

   B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.

5) If the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator ~~shall~~ must obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator ~~shall~~ must also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance.

6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b) of this Section at any time it has a reasonable belief that the owner or operator may no longer meet the

requirements of subsection (a) of this Section. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a) of this Section, the owner or operator ~~shall~~ must provide alternative financial assurance that meets the requirements of this Subpart G.

c) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator ~~shall~~ must include cost estimates required for municipal solid waste management facilities ~~under~~ pursuant to this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities ~~under~~ pursuant to 35 Ill. Adm. Code 730; petroleum underground storage tank facilities ~~under~~ pursuant to 40 CFR 280; PCB storage facilities ~~under~~ pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities ~~under~~ pursuant to 35 Ill. Adm. Code 724 or 725.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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

PART 812
INFORMATION TO BE SUBMITTED IN A PERMIT APPLICATION

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section
812.101 Scope and Applicability
812.102 Certification by Professional Engineer
812.103 Application Fees
812.104 Required Signatures
812.105 Approval by Unit of Local Government
812.106 Site Location Map
812.107 Site Plan Map
812.108 Narrative Description of the Facility
812.109 Location Standards
812.110 Surface Water Control
812.111 Daily Cover
812.112 Legal Description
812.113 Proof of Property Ownership and Certification
812.114 Closure Plans
812.115 Postclosure Care Plans
812.116 Closure and Postclosure Cost Estimates

812.117 Electronic Reporting

SUBPART B: ADDITIONAL INFORMATION REQUIRED FOR INERT WASTE LANDFILLS

Section
812.201 Scope and Applicability
812.202 Waste Stream Test Results
812.203 Final Cover
812.204 Closure Requirements

SUBPART C: ADDITIONAL INFORMATION REQUIRED FOR PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section
812.301 Scope and Applicability
812.302 Waste Analysis
812.303 Site Location
812.304 Waste Shredding
812.305 Foundation Analysis and Design
812.306 Design of the Liner System
812.307 Leachate Drainage and Collection Systems
812.308 Leachate Management System
812.309 Landfill Gas Monitoring Systems
812.310 Gas Collection Systems
812.311 Landfill Gas Disposal
812.312 Intermediate Cover
812.313 Design of the Final Cover System
812.314 Description of the Hydrogeology
812.315 Plugging and Sealing of Drill Holes
812.316 Results of the Groundwater Impact Assessment
812.317 Groundwater Monitoring Program
812.318 Operating Plans

AUTHORITY: Implementing Sections ~~5,~~ 7.2, 21, 21.1, 22, 22.17, and ~~28.1~~ 22.40, and authorized by Section 27 of the Environmental Protection Act ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1005, 1021, 1021.1, 1022, 1022.17, 1028.1 and 1027)~~ [415 ILCS 5/~~5,~~ 7.2, 21, 21.1, 22, 22.17, ~~28.1~~ 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15785, effective September 18, 1990; amended in R90-26 at 18 Ill. Reg. 12185, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section 812.117 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

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

PART 813
PROCEDURAL REQUIREMENTS FOR PERMITTED LANDFILLS

SUBPART A: GENERAL PROCEDURES

Section
813.101 Scope and Applicability
813.102 Delivery of Permit Application
813.103 Agency Decision Deadlines
813.104 Standards for Issuance of a Permit
813.105 Standards for Denial of a Permit
813.106 Permit Appeals
813.107 Permit No Defense
813.108 Term of Permit
813.109 Transfer of Permits
813.110 Adjusted Standards to Engage in Experimental Practices
813.111 Agency Review of Contaminant Transport Models
813.112 Research, Development, and Demonstration Permits for MSWLFs
813.113 Electronic Reporting

SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION AND SIGNIFICANT MODIFICATION OF PERMITS

Section
813.201 Initiation of a Modification or Significant Modification
813.202 Information Required for a Significant Modification of an Approved Permit
813.203 Specific Information Required for a Significant Modification to Obtain Operating Authorization
813.204 Procedures for a Significant Modification of an Approved Permit

SUBPART C: ADDITIONAL PROCEDURES FOR THE RENEWAL OF PERMITS

Section
813.301 Time of Filing
813.302 Effect of Timely Filing
813.303 Information Required for a Permit Renewal
813.304 Updated Groundwater Impact Assessment
813.305 Procedures for Permit Renewal

SUBPART D: ADDITIONAL PROCEDURES FOR INITIATION AND TERMINATION OF TEMPORARY AND PERMANENT CLOSURE AND POSTCLOSURE CARE

Section
813.401 Agency Notification Requirements
813.402 Certification of Closure
813.403 Termination of the Permit

SUBPART E: CERTIFICATION AND REPORTS

Section
813.501 Annual Certification
813.502 Groundwater Reports and Graphical Results of Monitoring Efforts
813.503 Information to be Retained at or near the Waste Disposal Facility
813.504 Annual Report

AUTHORITY: Implementing Sections ~~5,~~ 7.2, 21, 21.1, 22, 22.17, and ~~28.1~~ 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/~~5,~~ 7.2, 21, 21.1, 22, 22.17, ~~28.1~~ 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15814, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12409, effective July 19, 1993; expedited correction at 18 Ill. Reg. 7501, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12388, effective August 1, 1994; amended in R98-9 at 22 Ill. Reg. 11483, effective June 23, 1998; amended in R05-1 at 29 Ill. Reg. 5066, effective March 22, 2005; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

NOTE: Capitalization indicates statutory language.

SUBPART A: GENERAL PROCEDURES

Section 813.113 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

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
814.107 Compliance Dates for Existing MSWLF Units
814.108 Interim Permit Requirements for Existing MSWLF Units
814.109 Permit Requirements for Lateral Expansions at Existing MSWLF Units
814.110 Electronic Reporting

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 OR 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

SUBPART F: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL AND FOUNDRY INDUSTRIES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

Section
814.601 Scope and Applicability
814.602 Applicable Standards

SUBPART G: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL OR FOUNDRY INDUSTRIES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

Section
814.701 Scope and Applicability
814.702 Applicable Standards

SUBPART H: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE, OR ACCEPTING ONLY LOW RISK STEEL OR FOUNDRY INDUSTRY WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

Section
814.801 Scope and Applicability
814.802 Standards for Operation and Closure

SUBPART I: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE THAT PLAN TO STAY OPEN FOR MORE THAN TWO YEARS

Section
814.901 Scope and Applicability
814.902 Standards for Operation and Closure

Appendix A Additional Requirements for Existing MSWLF Units and Lateral Expansions Operating Under Permits Issued Pursuant to 35 Ill. Adm. Code 807.

AUTHORITY: Implementing Sections ~~5,~~ 7.2, 21, 21.1, 22, 22.17, and ~~28.1~~ 22.40 and authorized by Section 27 of the Environmental Protection Act ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1005, 1021, 1021.1, 1022, 1022.17, 1028.1 and 1027)~~ [415 ILCS 5/~~5,~~ 7.2, 21, 21.1, 22, 22.17, ~~28.1~~ 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15850, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1284, effective January 13, 1994; emergency amendment in R94-13 at 18

Ill. Reg. 8488, effective May 12, 1994, for a maximum of 150 days; amended in R90-26 at 18 Ill. Reg. 12471, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL REQUIREMENTS

Section 814.110 Electronic Reporting

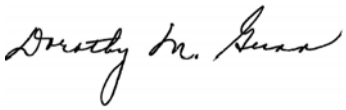
The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 810.105.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 258.29(d) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 16, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board