

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 724
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
724.101	Amend
724.111	Amend
724.112	Amend
724.115	Amend
724.152	Amend
724.156	Amend
724.170	Amend
724.171	Amend
724.172	Amend
724.241	Amend
724.242	Amend
724.243	Amend
724.274	Amend
724.295	Amend
724.414	Amend
724.416	Amend
724.652	Amend
724.1101	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A complete description of the subjects and issues involved: The amendments to Part 724 are a single segment of the docket R11-2/R11-16 rulemaking that also affects 35 Ill. Adm. Code 702, 720, 721, 722, 723, 725, 726, and 728, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R11-2/R11-16 rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of June 2, 2011, proposing amendments in docket R11-2/R11-16, which opinion and order is available from the address below.

Specifically, the amendments to Part 724 implement segments of the January 8, 2010 federal amendments to the hazardous waste import and export requirements and the

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federal technical corrections and clarifications of March 18, 2010. The amendments include a number of non-substantive corrections and clarifications added by the Board. Among the corrections is the removal of obsolete provisions relating to the former federal Performance Track Program and corrections to make the Illinois definition of "substantial business relationship" the same as the corresponding federal definition.

Tables appear in the Board's opinion and order of June 2, 2011 in docket R11-2/R11-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 2, 2011 opinion and order in docket R11-2/R11-16.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No. The incorporations by reference for the purposes of all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, and 739 appear in 35 Ill. Adm. Code 720.111. Amendments to 35 Ill. Adm. Code 720.111 may affect documents incorporated by reference for the purposes of this Part 724.
- 11) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R11-2/R11-16 and be addressed to:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Please direct inquiries to the following person and reference docket R11-2/R11-16:

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

Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

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

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
 - C) Types of professional skills necessary for compliance:

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Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010 and December 2010

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

EXEMPT

JCAR350724-1109561r01

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

5
6 PART 724
7 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
8 TREATMENT, STORAGE, AND DISPOSAL FACILITIES

RECEIVED
CLERK'S OFFICE

9
10 SUBPART A: GENERAL PROVISIONS

JUN 28 2011

STATE OF ILLINOIS
Pollution Control Board

- 11 Section
12 724.101 Purpose, Scope, and Applicability
13 724.103 Relationship to Interim Status Standards
14 724.104 Electronic Reporting

15
16
17 SUBPART B: GENERAL FACILITY STANDARDS

- 18
19 Section
20 724.110 Applicability
21 724.111 USEPA Identification Number
22 724.112 Required Notices
23 724.113 General Waste Analysis
24 724.114 Security
25 724.115 General Inspection Requirements
26 724.116 Personnel Training
27 724.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes
28 724.118 Location Standards
29 724.119 Construction Quality Assurance Program

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31 SUBPART C: PREPAREDNESS AND PREVENTION

- 32
33 Section
34 724.130 Applicability
35 724.131 Design and Operation of Facility
36 724.132 Required Equipment
37 724.133 Testing and Maintenance of Equipment
38 724.134 Access to Communications or Alarm System
39 724.135 Required Aisle Space
40 724.137 Arrangements with Local Authorities

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42 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES
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44	Section	
45	724.150	Applicability
46	724.151	Purpose and Implementation of Contingency Plan
47	724.152	Content of Contingency Plan
48	724.153	Copies of Contingency Plan
49	724.154	Amendment of Contingency Plan
50	724.155	Emergency Coordinator
51	724.156	Emergency Procedures

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53 SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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57	724.171	Use of Manifest System
58	724.172	Manifest Discrepancies
59	724.173	Operating Record
60	724.174	Availability, Retention, and Disposition of Records
61	724.175	Annual Facility Activities Report
62	724.176	Unmanifested Waste Report
63	724.177	Additional Reports

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65 SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

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67	Section	
68	724.190	Applicability
69	724.191	Required Programs
70	724.192	Groundwater Protection Standard
71	724.193	Hazardous Constituents
72	724.194	Concentration Limits
73	724.195	Point of Compliance
74	724.196	Compliance Period
75	724.197	General Groundwater Monitoring Requirements
76	724.198	Detection Monitoring Program
77	724.199	Compliance Monitoring Program
78	724.200	Corrective Action Program
79	724.201	Corrective Action for Solid Waste Management Units

80
81 SUBPART G: CLOSURE AND POST-CLOSURE CARE

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83	Section	
84	724.210	Applicability
85	724.211	Closure Performance Standard
86	724.212	Closure Plan; Amendment of Plan

87	724.213	Closure; Time Allowed For Closure
88	724.214	Disposal or Decontamination of Equipment, Structures, and Soils
89	724.215	Certification of Closure
90	724.216	Survey Plat
91	724.217	Post-Closure Care and Use of Property
92	724.218	Post-Closure Care Plan; Amendment of Plan
93	724.219	Post-Closure Notices
94	724.220	Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

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99	724.240	Applicability
100	724.241	Definitions of Terms as Used in This Subpart
101	724.242	Cost Estimate for Closure
102	724.243	Financial Assurance for Closure
103	724.244	Cost Estimate for Post-Closure Care
104	724.245	Financial Assurance for Post-Closure Care
105	724.246	Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
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107	724.247	Liability Requirements
108	724.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
109	724.251	Wording of the Instruments

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114	724.270	Applicability
115	724.271	Condition of Containers
116	724.272	Compatibility of Waste with Container
117	724.273	Management of Containers
118	724.274	Inspections
119	724.275	Containment
120	724.276	Special Requirements for Ignitable or Reactive Waste
121	724.277	Special Requirements for Incompatible Wastes
122	724.278	Closure
123	724.279	Air Emission Standards

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125		
126		
127	Section	
128	724.290	Applicability
129	724.291	Assessment of Existing Tank System Integrity

- 130 724.292 Design and Installation of New Tank Systems or Components
- 131 724.293 Containment and Detection of Releases
- 132 724.294 General Operating Requirements
- 133 724.295 Inspections
- 134 724.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank
- 135 Systems
- 136 724.297 Closure and Post-Closure Care
- 137 724.298 Special Requirements for Ignitable or Reactive Waste
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- 139 724.300 Air Emission Standards

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141 SUBPART K: SURFACE IMPOUNDMENTS

142

143 Section

- 144 724.320 Applicability
- 145 724.321 Design and Operating Requirements
- 146 724.322 Action Leakage Rate
- 147 724.323 Response Actions
- 148 724.326 Monitoring and Inspection
- 149 724.327 Emergency Repairs; Contingency Plans
- 150 724.328 Closure and Post-Closure Care
- 151 724.329 Special Requirements for Ignitable or Reactive Waste
- 152 724.330 Special Requirements for Incompatible Wastes
- 153 724.331 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and
- 154 F027
- 155 724.332 Air Emission Standards

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157 SUBPART L: WASTE PILES

158

159 Section

- 160 724.350 Applicability
- 161 724.351 Design and Operating Requirements
- 162 724.352 Action Leakage Rate
- 163 724.353 Response Action Plan
- 164 724.354 Monitoring and Inspection
- 165 724.356 Special Requirements for Ignitable or Reactive Waste
- 166 724.357 Special Requirements for Incompatible Wastes
- 167 724.358 Closure and Post-Closure Care
- 168 724.359 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and
- 169 F027

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171 SUBPART M: LAND TREATMENT

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174	724.370	Applicability
175	724.371	Treatment Program
176	724.372	Treatment Demonstration
177	724.373	Design and Operating Requirements
178	724.376	Food-Chain Crops
179	724.378	Unsaturated Zone Monitoring
180	724.379	Recordkeeping
181	724.380	Closure and Post-Closure Care
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183	724.382	Special Requirements for Incompatible Wastes
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185		F027

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189	Section	
190	724.400	Applicability
191	724.401	Design and Operating Requirements
192	724.402	Action Leakage Rate
193	724.403	Monitoring and Inspection
194	724.404	Response Actions
195	724.409	Surveying and Recordkeeping
196	724.410	Closure and Post-Closure Care
197	724.412	Special Requirements for Ignitable or Reactive Waste
198	724.413	Special Requirements for Incompatible Wastes
199	724.414	Special Requirements for Bulk and Containerized Liquids
200	724.415	Special Requirements for Containers
201	724.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab
202		Packs)
203	724.417	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and
204		F027

SUBPART O: INCINERATORS

205		
206		
207		
208	Section	
209	724.440	Applicability
210	724.441	Waste Analysis
211	724.442	Principal Organic Hazardous Constituents (POHCs)
212	724.443	Performance Standards
213	724.444	Hazardous Waste Incinerator Permits
214	724.445	Operating Requirements
215	724.447	Monitoring and Inspections

216 724.451 Closure

217

218 SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

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220 Section

221 724.650 Applicability of Corrective Action Management Unit Regulations

222 724.651 Grandfathered Corrective Action Management Units

223 724.652 Corrective Action Management Units

224 724.653 Temporary Units

225 724.654 Staging Piles

226 724.655 Disposal of CAMU-Eligible Wastes in Permitted Hazardous Waste Landfills

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228 SUBPART W: DRIP PADS

229

230 Section

231 724.670 Applicability

232 724.671 Assessment of Existing Drip Pad Integrity

233 724.672 Design and Installation of New Drip Pads

234 724.673 Design and Operating Requirements

235 724.674 Inspections

236 724.675 Closure

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238 SUBPART X: MISCELLANEOUS UNITS

239

240 Section

241 724.700 Applicability

242 724.701 Environmental Performance Standards

243 724.702 Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action

244 724.703 Post-Closure Care

245

246 SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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248 Section

249 724.930 Applicability

250 724.931 Definitions

251 724.932 Standards: Process Vents

252 724.933 Standards: Closed-Vent Systems and Control Devices

253 724.934 Test Methods and Procedures

254 724.935 Recordkeeping Requirements

255 724.936 Reporting Requirements

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257 SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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259	Section	
260	724.950	Applicability
261	724.951	Definitions
262	724.952	Standards: Pumps in Light Liquid Service
263	724.953	Standards: Compressors
264	724.954	Standards: Pressure Relief Devices in Gas/Vapor Service
265	724.955	Standards: Sampling Connecting Systems
266	724.956	Standards: Open-ended Valves or Lines
267	724.957	Standards: Valves in Gas/Vapor or Light Liquid Service
268	724.958	Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
269	724.959	Standards: Delay of Repair
270	724.960	Standards: Closed-Vent Systems and Control Devices
271	724.961	Alternative Percentage Standard for Valves
272	724.962	Skip Period Alternative for Valves
273	724.963	Test Methods and Procedures
274	724.964	Recordkeeping Requirements
275	724.965	Reporting Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
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280	724.980	Applicability
281	724.981	Definitions
282	724.982	Standards: General
283	724.983	Waste Determination Procedures
284	724.984	Standards: Tanks
285	724.985	Standards: Surface Impoundments
286	724.986	Standards: Containers
287	724.987	Standards: Closed-Vent Systems and Control Devices
288	724.988	Inspection and Monitoring Requirements
289	724.989	Recordkeeping Requirements
290	724.990	Reporting Requirements
291	724.991	Alternative Control Requirements for Tanks (Repealed)

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295	Section	
296	724.1100	Applicability
297	724.1101	Design and Operating Standards
298	724.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

301

302 Section
 303 724.1200 Applicability
 304 724.1201 Design and Operating Standards
 305 724.1202 Closure and Post-Closure Care
 306
 307 724.APPENDIX A Recordkeeping Instructions
 308 724.APPENDIX B EPA Report Form and Instructions (Repealed)
 309 724.APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test
 310 724.APPENDIX E Examples of Potentially Incompatible Waste
 311 724.APPENDIX I Groundwater Monitoring List
 312

313 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
 314 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].
 315

316 SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in
 317 R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136,
 318 effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986;
 319 amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill.
 320 Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August
 321 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in
 322 R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458,
 323 effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13,
 324 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at
 325 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654,
 326 effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991;
 327 amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.
 328 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26,
 329 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-
 330 16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487,
 331 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994;
 332 amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill.
 333 Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636,
 334 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998;
 335 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended
 336 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at
 337 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective
 338 January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited
 339 correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26
 340 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective
 341 February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in
 342 R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill.
 343 Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893,
 344 effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14,

345 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-
346 16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35
347 Ill. Reg. _____, effective _____.

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349 **SUBPART A: GENERAL PROVISIONS**

350
351 **Section 724.101 Purpose, Scope, and Applicability**

- 352
353 a) The purpose of this Part is to establish minimum standards that define the
354 acceptable management of hazardous waste.
355
356 b) The standards in this Part apply to owners and operators of all facilities that treat,
357 store, or dispose of hazardous waste, except as specifically provided otherwise in
358 this Part or 35 Ill. Adm. Code 721.
359
360 c) This Part applies to a person disposing of hazardous waste by means of ocean
361 disposal subject to a permit issued pursuant to the federal Marine Protection,
362 Research and Sanctuaries Act (33 USC 1401 et seq.) only to the extent they are
363 included in a RCRA permit by rule granted to such a person pursuant to 35 Ill.
364 Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of
365 the Environmental Protection Act [415 ILCS 5/21(f)]and 35 Ill. Adm. Code
366 703.121.

367
368 BOARD NOTE: This Part does apply to the treatment or storage of hazardous
369 waste before it is loaded onto an ocean vessel for incineration or disposal at sea.
370

- 371 d) This Part applies to a person disposing of hazardous waste by means of
372 underground injection subject to a permit issued by the Agency pursuant to
373 Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)]only to the
374 extent they are required by Subpart F of 35 Ill. Adm. Code 704.
375

376 BOARD NOTE: This Part does apply to the above-ground treatment or storage
377 of hazardous waste before it is injected underground.
378

- 379 e) This Part applies to the owner or operator of a POTW (publicly owned treatment
380 works) that treats, stores, or disposes of hazardous waste only to the extent
381 included in a RCRA permit by rule granted to such a person pursuant to 35 Ill.
382 Adm. Code 703.141.
383

- 384 f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the
385 federal regulations do not apply to T/S/D activities in authorized states, except
386 under limited, enumerated circumstances. This statement maintains structural
387 consistency with USEPA rules.

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g) This Part does not apply to the following:

- 1) The owner or operator of a facility permitted by the Agency 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 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 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

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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 35 Ill. Adm. Code 722.130 at a transfer facility for a

- 474 period of ten days or less.
 475
 476 10) The addition of absorbent materials to waste in a container (as defined in
 477 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a
 478 container, provided these actions occur at the time waste is first placed in
 479 the container, and Sections 724.117(b), 724.271, and 724.272 are
 480 complied with.
 481
 482 11) A universal waste handler or universal waste transporter (as defined in 35
 483 Ill. Adm. Code 720.110) that handles any of the wastes listed below is
 484 subject to regulation pursuant to 35 Ill. Adm. Code 733 when handling the
 485 following universal wastes:
 486
 487 A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 488
 489 B) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 490
 491 C) Mercury-containing equipment, as described in 35 Ill. Adm. Code
 492 733.104; and
 493
 494 D) Lamps, as described in 35 Ill. Adm. Code 733.105.
 495
 496 h) This Part applies to owners and operators of facilities that treat, store, or dispose
 497 of hazardous wastes referred to in 35 Ill. Adm. Code 728.
 498
 499 i) 35 Ill. Adm. Code 726.505 identifies when this Part applies to the storage of
 500 military munitions classified as solid waste pursuant to 35 Ill. Adm. Code
 501 726.302. The treatment and disposal of hazardous waste military munitions are
 502 subject to the applicable permitting, procedural, and technical standards in 35 Ill.
 503 Adm. Code 702, 703, 705, 720 through 728, and 738.
 504
 505 j) Subparts B, C, and D of this Part and Section 724.201 do not apply to remediation
 506 waste management sites. (However, some remediation waste management sites
 507 may be a part of a facility that is subject to a traditional RCRA permit because the
 508 facility is also treating, storing, or disposing of hazardous wastes that are not
 509 remediation wastes. In these cases, Subparts B, C, and D of this Part, and Section
 510 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead
 511 of Subparts B, C, and D of this Part, the owner or operator of a remediation waste
 512 management site must comply with the following requirements:
 513
 514 1) The owner or operator must obtain a USEPA identification number by
 515 applying to USEPA Region 5 using USEPA Form 8700-12, as described
 516 in Section 724.111;

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- 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 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,

- 560 reactive, and incompatible waste;
 561
 562 7) For remediation waste management sites subject to regulation under
 563 Subparts I through O and Subpart X of this Part, the owner or operator
 564 must design, construct, operate, and maintain a unit within a 100-year
 565 floodplain to prevent washout of any hazardous waste by a 100-year flood,
 566 unless the owner or operator can meet the requirements of Section
 567 724.118(b);
 568
 569 8) The owner or operator must not place any non-containerized or bulk liquid
 570 hazardous waste in any salt dome formation, salt bed formation,
 571 underground mine, or cave;
 572
 573 9) The owner or operator must develop and maintain a construction quality
 574 assurance program for all surface impoundments, waste piles, and landfill
 575 units that are required to comply with Sections 724.321(c) and (d),
 576 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste
 577 management site, according to Section 724.119;
 578
 579 10) The owner or operator must develop and maintain procedures to prevent
 580 accidents and a contingency and emergency plan to control accidents that
 581 occur. These procedures must address proper design, construction,
 582 maintenance, and operation of remediation waste management units at the
 583 site. The goal of the plan must be to minimize the possibility of, and the
 584 hazards from, a fire, explosion, or any unplanned sudden or non-sudden
 585 release of hazardous waste or hazardous waste constituents to air, soil, or
 586 surface water that could threaten human health or the environment. The
 587 plan must explain specifically how to treat, store, and dispose of the
 588 hazardous remediation waste in question, and must be implemented
 589 immediately whenever a fire, explosion, or release of hazardous waste or
 590 hazardous waste constituents occurs that could threaten human health or
 591 the environment;
 592
 593 11) The owner or operator must designate at least one employee, either on the
 594 facility premises or on call (that is, available to respond to an emergency
 595 by reaching the facility quickly), to coordinate all emergency response
 596 measures. This emergency coordinator must be thoroughly familiar with
 597 all aspects of the facility's contingency plan, all operations and activities at
 598 the facility, the location and characteristics of waste handled, the location
 599 of all records within the facility, and the facility layout. In addition, this
 600 person must have the authority to commit the resources needed to carry
 601 out the contingency plan;
 602

- 603 12) The owner or operator must develop, maintain, and implement a plan to
604 meet the requirements in subsections (j)(2) through (j)(6) and (j)(9)
605 through (j)(10) of this Section; and
606
607 13) The owner or operator must maintain records documenting compliance
608 with subsections (j)(1) through (j)(12) of this Section.
609

610 (Source: Amended at 35 Ill. Reg. _____, effective _____)
611

612 SUBPART B: GENERAL FACILITY STANDARDS
613

614 **Section 724.111 USEPA Identification Number**
615

616 Every facility owner or operator must apply to USEPA Region 5 for a USEPA identification
617 number using USEPA Form 8700-12. The facility owner or operator must obtain a copy of the
618 form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the
619 form to the Bureau of Land, in addition to notification to USEPA Region 5 in accordance with
620 the USEPA notification procedures.
621

622 ~~BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification.~~
623 ~~The federal instructions require that an owner or operator file notice for an Illinois facility file~~
624 ~~that notice with the Agency, Bureau of Land (telephone: 217-782-6762).~~
625

626 (Source: Amended at 35 Ill. Reg. _____, effective _____)
627

628 **Section 724.112 Required Notices**
629

- 630 a) Receipt from a foreign source.
631
632 1) The owner or operator of a facility that has arranged to receive hazardous
633 waste from a foreign source must notify the Regional Administrator in
634 writing at least four weeks in advance of the date the waste is expected to
635 arrive at the facility. Notice of subsequent shipments of the same waste
636 from the same foreign source is not required.
637
638 2) The owner or operator of a recovery facility that has arranged to receive
639 hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 must
640 provide a copy of the movement tracking document bearing all required
641 signatures to the foreign exporter/notifier, to the Office of Enforcement and
642 Compliance Assurance, Office of Federal Activities, International
643 Compliance, Enforcement Planning, Targeting and Data Division (2222A)
644 Assurance Division (2254A), Environmental Protection Agency, 401 M
645 St., SW, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the

646 Bureau of Land, Division of Land Pollution Control, Illinois
 647 Environmental Protection Agency, P.O. Box 19276, Springfield, IL
 648 62794-9276; and to the competent authorities of all other ~~concerned~~
 649 countries concerned within three working days ~~after~~ receipt of the
 650 shipment. The original of the signed movementtracking document must
 651 be maintained at the facility for at least three years. In addition, the owner
 652 or operator must send a certificate of recovery to the foreign exporter, to
 653 the competent authority of the country of export, to USEPA's Office of
 654 Enforcement and Compliance Assurance at the above address by mail, by
 655 e-mail without a digital signature followed by mail, or by fax followed by
 656 mail. The owner or operator must complete this sending of a certificate of
 657 recovery as soon as possible, but no later than 30 days after the completion
 658 of recovery, and no later than one calendar year following the receipt of
 659 the hazardous waste.

- 660
- 661 b) The owner or operator of a facility that receives hazardous waste from an off-site
 662 source (except where the owner or operator is also the generator) must inform the
 663 generator in writing that the owner or operator has the appropriate permits for,
 664 and will accept, the waste that the generator is shipping. The owner or operator
 665 must keep a copy of this written notice as part of the operating record.
- 666
- 667 c) Before transferring ownership or operation of a facility during its operating life,
 668 or of a disposal facility during the post-closure care period, the owner or operator
 669 must notify the new owner or operator in writing of the requirements of this Part
 670 and 35 Ill. Adm. Code 702 and 703.

671

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

675

676 (Source: Amended at 35 Ill. Reg. _____, effective _____)

677

678 **Section 724.115 General Inspection Requirements**

- 679
- 680 a) The owner or operator must conduct inspections often enough to identify
 681 problems in time to correct them before they harm human health or the
 682 environment. The owner or operator must inspect the facility for malfunctions
 683 and deterioration, operator errors, and discharges that may be causing or may lead
 684 to either of the following:
- 685
- 686 1) Release of hazardous waste constituents to the environment; or
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- 688 2) A threat to human health.

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- b) Inspection schedule.
- 1) The 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.
 - 2) The owner or operator must keep this schedule at the facility.
 - 3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).
 - 4) The frequency of inspection 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 operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, ~~except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section.~~ At a minimum, the inspection schedule must include the items and frequencies called for in Sections 724.274, 724.293, 724.295, 724.326, 724.354, 724.378, 724.403, 724.447, 724.702, 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.990, where applicable.
- BOARD NOTE: 35 Ill. Adm. Code 703 requires the inspection schedule to be submitted with Part B of the permit application. The Agency must evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Agency may modify or amend the schedule as may be necessary.
- 5) This subsection (b)(5) corresponds with 40 CFR 264.15(b)(5), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements. ~~The owner or~~

operator of a Performance Track member facility that chooses to reduce its inspection frequency must fulfill the following requirements:

A) ~~It must submit a request for a Class 1 permit modification with prior approval to the Agency. The modification request must identify its facility as a member of the National Environmental Performance Track Program, and it must identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as its facility is a Performance Track member facility, and that within seven calendar days of ceasing to be a Performance Track member, the owner or operator will revert to the non-Performance Track inspection frequency, as provided in subsection (b)(4) of this Section. Inspections pursuant to this subsection (b)(5) must be conducted at least once each month.~~

B) ~~Within 60 days, the Agency must notify the owner or operator of the Performance Track member facility, in writing, if the request submitted pursuant to subsection (b)(5)(A) of this Section is approved, denied, or if an extension to the 60-day deadline is needed. This notice must be placed in the facility's operating record. The owner or operator of the Performance Track member facility should consider the application approved if the Agency does not either deny the application or notify the owner or operator of the Performance Track member facility of an extension to the 60-day deadline. In these situations, the owner or operator of the Performance Track member facility must adhere to the revised inspection schedule outlined in its request for a Class 1 permit modification and keep a copy of the application in the facility's operating record.~~

C) ~~Any owner or operator of a Performance Track member facility that discontinues its membership or which USEPA terminates from the program must immediately notify the Agency of its change in status. The facility owner or operator must place in its operating record a dated copy of this notification and revert back to the non-Performance Track inspection frequencies within seven calendar days.~~

c) The owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule that which ensures that the problem does not lead to an environmental or human health

774 hazard. ~~When~~Where a hazard is imminent or has already occurred, remedial
775 action must be taken immediately.

- 776
777 d) The owner or operator must record inspections in an inspection log or summary.
778 The owner or operator must keep these records for at least three years from the
779 date of inspection. At a minimum, these records must include the date and time
780 of the inspection, the name of the inspector, a notation of the observations made
781 and the date, and nature of any repairs or other remedial actions.

782
783 (Source: Amended at 35 Ill. Reg. _____, effective _____)
784

785 **SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES**

786
787 **Section 724.152 Content of Contingency Plan**

- 788
789 a) The contingency plan must describe the actions facility personnel must take to
790 comply with Sections 724.151 and 724.156 in response to fires, explosions, or any
791 unplanned sudden or non-sudden release of hazardous waste or hazardous waste
792 constituents to air, soil, or surface water at the facility.
793
794 b) If the owner or operator has already prepared a Spill Prevention Control and
795 Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112-~~or 300~~, or
796 some other emergency or contingency plan, the owner or operator need only
797 amend that plan to incorporate hazardous waste management provisions that are
798 sufficient to comply with the requirements of this Part. The owner or operator
799 may develop one contingency plan that meets all regulatory requirements.
800 USEPA has recommended that the plan be based on the National Response
801 Team's Integrated Contingency Plan Guidance (One Plan). When modifications
802 are made to non-RCRA provisions in an integrated contingency plan, the changes
803 do not trigger the need for a RCRA permit modification.

804
805 BOARD NOTE: The federal One Plan guidance appeared in the Federal Register
806 at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103
807 (June 19, 1996). USEPA, Office of Resource Conservation and Recovery,
808 Chemical Emergency Preparedness and Prevention Office, has made these
809 documents available on-line for examination and download at
810 www.epa.gov/emergencies (search for "one plan" or "integrated contingency
811 plan" documents).

- 812
813 c) The plan must describe arrangements agreed to by local police departments, fire
814 departments, hospitals, contractors, and state and local emergency response teams
815 to coordinate emergency services pursuant to Section 724.137.
816

- 817 d) The plan must list names, addresses, and phone numbers (office and home) of all
 818 persons qualified to act as emergency coordinator (see Section 724.155), and this
 819 list must be kept up to date. Where more than one person is listed, one must be
 820 named as primary emergency coordinator and others must be listed in the order in
 821 which they will assume responsibility as alternates. For new facilities, this
 822 information must be supplied to the Agency at the time of certification, rather
 823 than at the time of permit application.
 824
- 825 e) The plan must include a list of all emergency equipment at the facility (such as
 826 fire extinguishing systems, spill control equipment, communications and alarm
 827 systems (internal and external), and decontamination equipment), where this
 828 equipment is required. This list must be kept up to date. In addition, the plan
 829 must include the location and a physical description of each item on the list and a
 830 brief outline of its capabilities.
 831
- 832 f) The plan must include an evacuation plan for facility personnel where there is a
 833 possibility that evacuation could be necessary. This plan must describe signals to
 834 be used to begin evacuation, evacuation routes and alternative evacuation routes
 835 (in cases where the primary routes could be blocked by releases of hazardous
 836 waste or fires).
 837

838 (Source: Amended at 35 Ill. Reg. _____, effective _____)
 839

840 **Section 724.156 Emergency Procedures**
 841

- 842 a) Whenever there is an imminent or actual emergency situation, the emergency
 843 coordinator (or the designee when the emergency coordinator is on call) must
 844 immediately do the following:
 845
- 846 1) He or she must activate internal facility alarms or communication systems,
 847 where applicable, to notify all facility personnel; and
 848
 - 849 2) He or she must notify appropriate State or local agencies with designated
 850 response roles if their help is needed.
 851
- 852 b) Whenever there is a release, fire, or explosion, the emergency coordinator must
 853 immediately identify the character, exact source, amount, and areal extent of any
 854 released materials. The emergency coordinator may do this by observation or
 855 review of facility records or manifests and, if necessary, by chemical analysis.
 856
- 857 c) Concurrently, the emergency coordinator must assess possible hazards to human
 858 health or the environment that may result from the release, fire, or explosion.
 859 This assessment must consider both direct and indirect effects of the release, fire,

- 860 or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are
 861 generated, or the effects of any hazardous surface water run-off from water or
 862 chemical agents used to control fire and heat-induced explosions).
 863
- 864 d) If the emergency coordinator determines that the facility has had a release, fire, or
 865 explosion that could threaten human health or the environment outside the
 866 facility, the emergency coordinator must report the findings as follows:
 867
- 868 1) If the assessment indicates that evacuation of local areas may be advisable,
 869 the emergency coordinator must immediately notify appropriate local
 870 authorities. The emergency coordinator must be available to help
 871 appropriate officials decide whether local areas should be evacuated; and
 872
- 873 2) The emergency coordinator must immediately notify either the
 874 government official designated as the on-scene coordinator for that
 875 geographical area (~~in the applicable regional contingency plan pursuant to~~
 876 ~~federal 40 CFR 300~~) or the National Response Center (using their 24-hour
 877 toll free number 800-424-8802). The report must include the following:
 878
- 879 A) The name and telephone number of the reporter;
 880
 881 B) The name and address of the facility;
 882
 883 C) The time and type of incident (e.g., release, fire);
 884
 885 D) The name and quantity of materials involved, to the extent known;
 886
 887 E) The extent of injuries, if any; and
 888
 889 F) The possible hazards to human health or the environment outside
 890 the facility.
 891
- 892 e) During an emergency, the emergency coordinator must take all reasonable
 893 measures necessary to ensure that fires, explosions, and releases do not occur,
 894 recur, or spread to other hazardous waste at the facility. These measures must
 895 include, where applicable, stopping processes and operations, collecting and
 896 containing release waste, and removing or isolating containers.
 897
- 898 f) If the facility stops operations in response to a fire, explosion, or release, the
 899 emergency coordinator must monitor for leaks, pressure buildup, gas generation,
 900 or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
 901
- 902 g) Immediately after an emergency, the emergency coordinator must provide for

903 treating, storing, or disposing of recovered waste, contaminated soil or surface
904 water, or any other material that results from a release, fire, or explosion at the
905 facility.

906
907 BOARD NOTE: Unless the owner or operator can demonstrate, in accordance
908 with 35 Ill. Adm. Code 721.103(d) or (e), that the recovered material is not a
909 hazardous waste, the owner or operator becomes a generator of hazardous waste
910 and must manage it in accordance with all applicable requirements of 35 Ill. Adm.
911 Code 722, 723, and 724.

- 912
- 913 h) The emergency coordinator must ensure that the following is true in the affected
914 areas of the facility:
 - 915
 - 916 1) No waste that may be incompatible with the released material is treated,
917 stored, or disposed of until cleanup procedures are completed; and
 - 918
 - 919 2) All emergency equipment listed in the contingency plan is cleaned and fit
920 for its intended use before operations are resumed.
 - 921
 - 922 i) The owner or operator must note in the operating record the time, date, and details
923 of any incident that requires implementing the contingency plan. Within 15 days
924 after the incident, the owner or operator must submit a written report on the
925 incident to the Agency. The report must include the following:
 - 926
 - 927 1) The name, address, and telephone number of the owner or operator;
 - 928
 - 929 2) The name, address, and telephone number of the facility;
 - 930
 - 931 3) The date, time, and type of incident (e.g., fire, explosion);
 - 932
 - 933 4) The name and quantity of materials involved;
 - 934
 - 935 5) The extent of injuries, if any;
 - 936
 - 937 6) An assessment of actual or potential hazards to human health or the
938 environment, where this is applicable; and
 - 939
 - 940 7) The estimated quantity and disposition of recovered material that resulted
941 from the incident.
 - 942

943 (Source: Amended at 35 Ill. Reg. _____, effective _____)

944
945 SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

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Section 724.170 Applicability

The regulations in this Subpart E apply to owners and operators of both on-site and off-site facilities, except as Section 724.101 provides otherwise. Sections 724.171, 724.172, and 724.176 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor do they apply to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 35 Ill. Adm. Code 726.303(a). Section 724.173(b) only applies to permittees that treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

~~BOARD NOTE: This Section corresponds with 40 CFR 264.70(a) (2005), effective September 5, 2006. The Board omitted 40 CFR 264.70(b) (2005), since that provision merely stated the September 5, 2006 effective date for the newer manifest requirements.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.
 - 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) It must sign and date, by hand, each copy of the manifest;
 - B) It must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;
 - C) It must immediately give the transporter at least one copy of the manifest;
 - D) It must send a copy of the manifest to the generator within 30 days after delivery; and

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E) It must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. Avenue, NW, Washington, DC 20460.

b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:

- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
- 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
- 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail

1032 or water (bulk shipment).
 1033
 1034 5) Retain at the facility a copy of the manifest and shipping paper (if signed
 1035 in lieu of the manifest at the time of delivery) for at least three years from
 1036 the date of delivery.

1037
 1038 c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or
 1039 operator of that facility must comply with the requirements of 35 Ill. Adm. Code
 1040 722.

1041
 1042 BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to
 1043 the on-site accumulation of hazardous wastes by generators. Therefore, the
 1044 provisions of Section 722.134 only apply to owners or operators that are shipping
 1045 hazardous waste that they generated at that facility.

1046
 1047 d) Within three working days after the receipt of a shipment subject to Subpart H of
 1048 35 Ill. Adm. Code 722, the owner or operator of ~~at~~ the facility must provide a copy
 1049 of the movement tracking document bearing all required signatures to the
 1050 ~~exporter/notifier~~; to the Office of Enforcement and Compliance Assurance, Office
 1051 of ~~Federal Activities, International Compliance, Enforcement Planning, Targeting~~
 1052 ~~and Data Assurance Division (2254A)(2222A)~~, Environmental Protection
 1053 Agency, ~~1200 Pennsylvania Ave., NW, 401 M St., SW,~~ Washington, DC 20460;
 1054 to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental
 1055 Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to
 1056 competent authorities of all other concerned countries. The original copy of the
 1057 movement tracking document must be maintained at the facility for at least three
 1058 years from the date of signature.

1059
 1060 (Source: Amended at 35 Ill. Reg. _____, effective _____)

1061
 1062 **Section 724.172 Manifest Discrepancies**

- 1063
 1064 a) "Manifest discrepancies" are defined as any one of the following:
 1065
 1066 1) Significant differences (as defined by subsection (b) of this Section)
 1067 between the quantity or type of hazardous waste designated on the
 1068 manifest or shipping paper, and the quantity and type of hazardous waste a
 1069 facility actually receives;
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 1071 2) Rejected wastes, which may be a full or partial shipment of hazardous
 1072 waste that the treatment, storage, or disposal facility cannot accept; or
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- 3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).

 - b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

 - c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

 - d) Rejection of hazardous waste.
 - 1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

 - 2) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f) of this Section.

 - e) Except as provided in subsection (e)(7) of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (e)(1) through (e)(6) of this Section:

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

required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (f)(1) through (f)(6) and (f)(8) of this Section:

- 1) The facility owner or operator must writeWrite the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must writeWrite the facility'sgenerator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility'sgenerator's site address, then the facility owner or operator must write the facility'sgenerator's site address in the designated space for Item 5 of the new manifest.
- 2) The facility owner or operator must writeWrite the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.
- 3) The facility owner or operator must copyCopy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.
- 4) The facility owner or operator must copyCopy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).
- 5) The facility owner or operator must writeWrite the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.
- 6) The facility owner or operator must signSign the Generator's/Offerrer's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.
- 7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8) of this Section.

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- 8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in 35 Ill. Adm. Code 722.142(a).

 - g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

1222 (Source: Amended at 35 Ill. Reg. _____, effective _____)

1223
1224 **SUBPART H: FINANCIAL REQUIREMENTS**

1225
1226 **Section 724.241 Definitions of Terms as Used in This Subpart**

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1228 For the purposes of this Subpart H, the following terms have the given meanings:

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- a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 724.212.

 - b) "Current closure cost estimate" means that the most recent of the estimates prepared in accordance with Section 724.242(a), (b), and (c).

 - c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Section 724.244(a), (b), and (c).

 - d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

 - e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 724.217 through 724.220.

- 1246 f) The following terms are used in the specifications for the financial test for
1247 closure, post-closure care and liability coverage. The definitions are intended to
1248 assist in the understanding of these regulations and are not intended to limit the
1249 meanings of terms in a way that conflicts with generally accepted accounting
1250 practices.
- 1251
- 1252 "Assets" means all existing and all probable future economic benefits
1253 obtained or controlled by a particular entity.
- 1254
- 1255 "Current assets" means cash or other assets or resources commonly
1256 identified as those that are reasonably expected to be realized in cash or
1257 sold or consumed during the normal operating cycle of the business.
- 1258
- 1259 "Current liabilities" means obligations whose liquidation is reasonably
1260 expected to require the use of existing resources properly classifiable as
1261 current assets or the creation of other current liabilities.
- 1262
- 1263 "Current plugging and abandonment cost estimate" means the most recent
1264 of the estimates prepared in accordance with 35 Ill. Adm. Code
1265 704.212(a), (b), and (c).
- 1266
- 1267 "Independently audited" refers to an audit performed by an independent
1268 certified public accountant in accordance with generally accepted auditing
1269 standards.
- 1270
- 1271 "Liabilities" means probable future sacrifices of economic benefits arising
1272 from present obligations to transfer assets or provide services to other
1273 entities in the future as a result of past transactions or events.
- 1274
- 1275 "Net working capital" means current assets minus current liabilities.
- 1276
- 1277 "Net worth" means total assets minus total liabilities and is equivalent to
1278 owner's equity.
- 1279
- 1280 "Tangible net worth" means the tangible assets that remain after deducting
1281 liabilities; such assets would not include intangibles, such as goodwill and
1282 rights to patents or royalties.
- 1283
- 1284 g) In the liability insurance requirements the terms "bodily injury" and "property
1285 damage" have the meanings given below. The Board intends the meanings of
1286 other terms used in the liability insurance requirements to be consistent with their
1287 common meanings within the insurance industry. The definitions given below of
1288 several of the terms are intended to assist in the understanding of these regulations

1289 and are not intended to limit their meanings in a way that conflicts with general
1290 insurance industry usage.

1291
1292 "Accidental occurrence" means an accident, including continuous or
1293 repeated exposure to conditions, that results in bodily injury or property
1294 damage neither expected nor intended from the standpoint of the insured.

1295
1296 "Bodily injury" means bodily injury, sickness, or disease sustained by a
1297 person, including death resulting from any of these at any time. However,
1298 this term does not include those liabilities that, consistent with standard
1299 insurance industry practices, are excluded from coverage in liability
1300 insurance policies for bodily injury.

1301 BOARD NOTE: Derived from 40 CFR 264.141 (2010)(~~2002~~).

1302
1303 "Environmental damage" means the injurious presence in or upon land,
1304 the atmosphere, or any watercourse or body of water of solid, liquid,
1305 gaseous, or thermal contaminants, irritants, or pollutants.

1306 BOARD NOTE: This term is used in the definition of "pollution
1307 incident."

1308
1309 "Legal defense costs" means any expenses that an insurer incurs in
1310 defending against claims of third parties brought under the terms and
1311 conditions of an insurance policy.

1312
1313 "Nonsudden accidental occurrence" means an occurrence that takes place
1314 over time and involves continuous or repeated exposure.

1315
1316 "Pollutants" means any solid, liquid, gaseous or thermal irritant or
1317 contaminant, including smoke, vapor, soot, fumes, acids, alkalis,
1318 chemicals, and waste.

1319 BOARD NOTE: This definition is used in the definition of "pollution
1320 incident."

1321
1322 "Pollution incident" means emission, discharge, release, or escape of
1323 pollutants into or upon land, the atmosphere or any watercourse or body of
1324 water, provided that such emission, discharge, release, or escape results in
1325 "environmental damage." The entirety of any such emission, discharge,
1326 release, or escape must be deemed to be one "pollution incident." "Waste"
1327 includes materials to be recycled, reconditioned, or reclaimed. The term
1328 "pollution incident" includes an "occurrence."

1329 BOARD NOTE: This definition is used in the definition of "property
1330 damage."
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"Property damage" means as follows:

Either of the following:

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

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

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

BOARD NOTE: Derived from 40 CFR 264.141 (2002) .

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

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

BOARD NOTE: Derived from 40 CFR 264.141(h) (2010) and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 725.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.242 Cost Estimate for Closure

- 1375 a) The owner or operator must have detailed a written estimate, in current dollars, of
 1376 the cost of closing the facility in accordance with the requirements in Sections
 1377 724.211 through 724.215 and applicable closure requirements in Sections
 1378 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701 through
 1379 724.703, and 724.1102.
 1380
- 1381 1) The estimate must equal the cost of final closure at the point in the
 1382 facility's active life when the extent and manner of its operation would
 1383 make closure the most expensive, as indicated by its closure plan (see
 1384 Section 724.212(b))~~;~~⁵ and
 1385
- 1386 2) The closure cost estimate must be based on the costs to the owner or
 1387 operator of hiring a third party to close the facility. A third party is a party
 1388 who is neither a parent nor a subsidiary of the owner or operator. (See
 1389 definition of parent corporation in Section 724.241(d)). The owner or
 1390 operator may use costs for on-site disposal if the owner or operator
 1391 demonstrates that on-site disposal capacity will exist at all times over the
 1392 life of the facility.
 1393
- 1394 3) The closure cost estimate must not incorporate any salvage value that may
 1395 be realized with the sale of hazardous wastes, or non-hazardous wastes if
 1396 permitted by the Agency pursuant to~~applicable under~~ Section 724.213(d),
 1397 facility structures or equipment, land or other assets associated with the
 1398 facility at the time of partial or final closure. hazardous wastes that might
 1399 have economic value.
 1400
- 1401 4) The owner or operator must not incorporate a zero cost for hazardous
 1402 wastes, or non-hazardous wastes if permitted by the Agency pursuant
 1403 to~~applicable under~~ Section 724.213(d), that might have economic value.
 1404
- 1405 b) During the active life of the facility, the owner or operator must adjust the closure
 1406 cost estimate for inflation within 60 days prior to the anniversary date of the
 1407 establishment of the financial instruments used to comply with Section 724.243.
 1408 For owners and operators using the financial test or corporate guarantee, the
 1409 closure cost estimate must be updated for inflation within 30 days after the close
 1410 of the firm's fiscal year and before submission of updated information to the
 1411 Agency as specified in Section 724.243(f)(3). The adjustment may be made by
 1412 recalculating the maximum costs of closure in current dollars, or by using an
 1413 inflation factor derived from the annual Implicit Price Deflator for Gross National
 1414 Product (Deflator) as published by the U.S. Department of Commerce in its
 1415 Survey of Current Business, as specified in subsections (b)(1) and (b)(2) of this
 1416 Section. The inflation factor is the result of dividing the latest published annual
 1417 Deflator by the Deflator for the previous year.

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- 1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.
- 2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account Tables, published by U.S. Department of Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address: www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr.

- c) During the active life of the facility the 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 Section 724.242(b).
- d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with Sections 724.242(a) and (c) and, when this estimate has been adjusted in accordance with Section 724.242(b), the latest adjusted closure cost estimate.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.243 Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. The owner or operator must choose from the options that are specified in subsections (a) through (f) of this Section.

- a) Closure trust fund.
 - 1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection (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 treatment, storage or 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.

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- 2) The wording of the trust agreement must be that specified in Section 724.251, and the trust agreement must be 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 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 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 treatment, storage, or 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 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:

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

Where:

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

- B) If an owner or operator establishes a trust fund as specified in 35 Ill. Adm. Code 725.243(a) and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current 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

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formula:

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

Where:

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

- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.
- 5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section or in 35 Ill. Adm. Code 725.243, 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 725.243, as applicable.
- 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate or obtain other financial assurance as specified in this Section to cover the difference.
- 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
- 8) If an owner or operator substitutes other financial assurance, as specified in this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current

- 1539 closure cost estimate covered by the trust fund.
 1540
 1541 9) Within 60 days after receiving a request from the owner or operator for
 1542 release of funds as specified in subsection (a)(7) or (a)(8) of this Section,
 1543 the Agency must instruct the trustee to release to the owner or operator
 1544 such funds as the Agency specifies in writing.
 1545
 1546 10) After beginning partial or final closure, an owner or operator or another
 1547 person authorized to conduct partial or final closure may request
 1548 reimbursement for closure expenditures by submitting itemized bills to the
 1549 Agency. The owner or operator may request reimbursement for partial
 1550 closure only if sufficient funds are remaining in the trust fund to cover the
 1551 maximum costs of closing the facility over its remaining operating life.
 1552 Within 60 days after receiving bills for partial or final closure activities,
 1553 the Agency must instruct the trustee to make reimbursement in those
 1554 amounts as the Agency specifies in writing if the Agency determines that
 1555 the partial or final closure expenditures are in accordance with the
 1556 approved closure plan, or otherwise justified. If the Agency determines
 1557 that the maximum cost of closure over the remaining life of the facility
 1558 will be significantly greater than the value of the trust fund, it must
 1559 withhold reimbursement of such amounts as it deems prudent until it
 1560 determines, in accordance with subsection (i) of this Section, that the
 1561 owner or operator is no longer required to maintain financial assurance for
 1562 final closure of the facility. If the Agency does not instruct the trustee to
 1563 make such reimbursements, the Agency must provide the owner or
 1564 operator with a detailed written statement of reasons.
 1565
 1566 11) The Agency must agree to termination of the trust when either of the
 1567 following occurs:
 1568
 1569 A) An owner or operator substitutes alternate financial assurance, as
 1570 specified in this Section; or
 1571
 1572 B) The Agency releases the owner or operator from the requirements
 1573 of this Section in accordance with subsection (i).
 1574
 1575 b) Surety bond guaranteeing payment into a closure trust fund.
 1576
 1577 1) An owner or operator may satisfy the requirements of this Section by
 1578 obtaining a surety bond that conforms to the requirements of this
 1579 subsection (b) and submitting the bond to the Agency. An owner or
 1580 operator of a new facility must submit the bond to the Agency at least 60
 1581 days before the date on which hazardous waste is first received for

1582 treatment, storage or disposal. The bond must be effective before this
1583 initial receipt of hazardous waste. The surety company issuing the bond
1584 must, at a minimum, be among those listed as acceptable sureties on
1585 federal bonds in Circular 570 of the U.S. Department of the Treasury.
1586

1587 BOARD NOTE: The U.S. Department of the Treasury updates Circular
1588 570, "Companies Holding Certificates of Authority as Acceptable Sureties
1589 on Federal Bonds and as Acceptable Reinsuring Companies," on an annual
1590 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
1591 from the following website: <http://www.fms.treas.gov/c570/>.
1592

1593 2) The wording of the surety bond must be that specified in Section 724.251.
1594

1595 3) The owner or operator who uses a surety bond to satisfy the requirements
1596 of this Section must also establish a standby trust fund. Under the terms
1597 of the bond, all payments made thereunder will be deposited by the surety
1598 directly into the standby trust fund in accordance with instructions from
1599 the Agency. This standby trust fund must meet the requirements specified
1600 in subsection (a) of this Section except as follows:
1601

1602 A) An original, signed duplicate of the trust agreement must be
1603 submitted to the Agency with the surety bond; and
1604

1605 B) Until the standby trust fund is funded pursuant to the requirements
1606 of this Section, the following are not required by these regulations:
1607

1608 i) Payments into the trust fund as specified in subsection (a)
1609 of this Section;

1610 ii) Updating of Schedule A of the trust agreement (see 35 Ill.
1611 Adm. Code 724.251) to show current closure cost
1612 estimates;

1613 iii) Annual valuations, as required by the trust agreement; and
1614

1615 iv) Notices of nonpayment as required by the trust agreement.
1616

1617 4) The bond must guarantee that the owner or operator will do one of the
1618 following:
1619

1620 A) Fund the standby trust fund in an amount equal to the penal sum of
1621 the bond before the beginning of final closure of the facility;
1622
1623
1624

- 1625 B) Fund the standby trust fund in an amount equal to the penal sum
- 1626 within 15 days after an order to begin final closure is issued by the
- 1627 Board or a U.S. district court or other court of competent
- 1628 jurisdiction; or
- 1629
- 1630 C) Provide alternate financial assurance as specified in this Section,
- 1631 and obtain the Agency's written approval of the assurance
- 1632 provided, within 90 days after receipt by both the owner or
- 1633 operator and the Agency of a notice of cancellation of the bond
- 1634 from the surety.
- 1635
- 1636 5) Under the terms of the bond, the surety will become liable on the bond
- 1637 obligation when the owner or operator fails to perform as guaranteed by
- 1638 the bond.
- 1639
- 1640 6) The penal sum of the bond must be in an amount at least equal to the
- 1641 current closure cost estimate, except as provided in subsection (g) of this
- 1642 Section.
- 1643
- 1644 7) Whenever the current closure cost estimate increases to an amount greater
- 1645 than the penal sum, the owner or operator, within 60 days after the
- 1646 increase, must either cause the penal sum to be increased to an amount at
- 1647 least equal to the current closure cost estimate and submit evidence of
- 1648 such increase to the Agency or obtain other financial assurance, as
- 1649 specified in this Section, to cover the increase. Whenever the current
- 1650 closure cost estimate decreases, the penal sum may be reduced to the
- 1651 amount of the current closure cost estimate following written approval by
- 1652 the Agency.
- 1653
- 1654 8) Under the terms of the bond, the surety may cancel the bond by sending
- 1655 notice of cancellation by certified mail to the owner or operator and to the
- 1656 Agency. Cancellation may not occur, however, during the 120 days
- 1657 beginning on the date of receipt of the notice of cancellation by both the
- 1658 owner or operator and the Agency, as evidenced by the return receipts.
- 1659
- 1660 9) The owner or operator may cancel the bond if the Agency has given prior
- 1661 written consent based on its receipt of evidence of alternate financial
- 1662 assurance as specified in this Section.
- 1663
- 1664 c) Surety bond guaranteeing performance of closure.
- 1665
- 1666 1) An owner or operator may satisfy the requirements of this Section by
- 1667 obtaining a surety bond that conforms to the requirements of this

1668 subsection (c) and submitting the bond to the Agency. An owner or
1669 operator of a new facility must submit the bond to the Agency at least 60
1670 days before the date on which hazardous waste is first received for
1671 treatment, storage, or disposal. The bond must be effective before this
1672 initial receipt of hazardous waste. The surety company issuing the bond
1673 must, at a minimum, be among those listed as acceptable sureties on
1674 federal bonds in Circular 570 of the U.S. Department of the Treasury.
1675

1676 BOARD NOTE: The U.S. Department of the Treasury updates Circular
1677 570, "Companies Holding Certificates of Authority as Acceptable Sureties
1678 on Federal Bonds and as Acceptable Reinsuring Companies," on an annual
1679 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
1680 from the following website: <http://www.fms.treas.gov/c570/>.
1681

- 1682 2) The wording of the surety bond must be that specified in Section 724.251.
1683
1684 3) The owner or operator who uses a surety bond to satisfy the requirements
1685 of this Section must also establish a standby trust fund. Under the terms
1686 of the bond, all payments made thereunder will be deposited by the surety
1687 directly into the standby trust fund in accordance with instructions from
1688 the Agency. This standby trust must meet the requirements specified in
1689 subsection (a) of this Section, except as follows:
1690
1691 A) An original, signed duplicate of the trust agreement must be
1692 submitted to the Agency with the surety bond; and
1693
1694 B) Unless the standby trust fund is funded pursuant to the
1695 requirements of this Section, the following are not required by
1696 these regulations:
1697
1698 i) Payments into the trust fund, as specified in subsection (a)
1699 of this Section;
1700
1701 ii) Updating of Schedule A of the trust agreement (as specified
1702 in Section 724.251) to show current closure cost estimates;
1703
1704 iii) Annual valuations, as required by the trust agreement; and
1705
1706 iv) Notices of nonpayment, as required by the trust agreement.
1707
1708 4) The bond must guarantee that the owner or operator will do the following:
1709
1710 A) Perform final closure in accordance with the closure plan and other

- 1711 requirements of the permit for the facility whenever required to do
1712 so; or
1713
1714 B) Provide alternative financial assurance, as specified in this Section,
1715 and obtain the Agency's written approval of the assurance
1716 provided, within 90 days after receipt by both the owner or
1717 operator and the Agency of a notice of cancellation of the bond
1718 from the surety.
1719
- 1720 5) Under the terms of the bond, the surety will become liable on the bond
1721 obligation when the owner or operator fails to perform as guaranteed by
1722 the bond. Following a final judicial determination or Board order finding
1723 that the owner or operator has failed to perform final closure in accordance
1724 with the approved closure plan and other permit requirements when
1725 required to do so, under the terms of the bond the surety will perform final
1726 closure, as guaranteed by the bond, or will deposit the amount of the penal
1727 sum into the standby trust fund.
1728
- 1729 6) The penal sum of the bond must be in an amount at least equal to the
1730 current closure cost estimate.
1731
- 1732 7) Whenever the current closure cost estimate increases to an amount greater
1733 than the penal sum, the owner or operator, within 60 days after the
1734 increase, must either cause the penal sum to be increased to an amount at
1735 least equal to the current closure cost estimate and submit evidence of
1736 such increase to the Agency or obtain other financial assurance as
1737 specified in this Section. Whenever the current closure cost estimate
1738 decreases, the penal sum may be reduced to the amount of the current
1739 closure cost estimate following written approval by the Agency.
1740
- 1741 8) Under the terms of the bond, the surety may cancel the bond by sending
1742 notice of cancellation by certified mail to the owner or operator and to the
1743 Agency. Cancellation may not occur, however, during the 120 days
1744 beginning on the date of receipt of the notice of cancellation by both the
1745 owner or operator and the Agency, as evidenced by the return receipts.
1746
- 1747 9) The owner or operator may cancel the bond if the Agency has given prior
1748 written consent. The Agency must provide such written consent when
1749 either of the following occurs:
1750
- 1751 A) An owner or operator substitutes alternative financial assurance, as
1752 specified in this Section; or
1753

- 1754 B) The Agency releases the owner or operator from the requirements
1755 of this Section in accordance with subsection (i) of this Section.
1756
- 1757 10) The surety must not be liable for deficiencies in the performance of
1758 closure by the owner or operator after the Agency releases the owner or
1759 operator from the requirements of this Section in accordance with
1760 subsection (i) of this Section.
1761
- 1762 d) Closure letter of credit.
1763
- 1764 1) An owner or operator may satisfy the requirements of this Section by
1765 obtaining an irrevocable standby letter of credit that conforms to the
1766 requirements of this subsection (d) and submitting the letter to the Agency.
1767 An owner or operator of a new facility must submit the letter of credit to
1768 the Agency at least 60 days before the date on which hazardous waste is
1769 first received for treatment, storage, or disposal. The letter of credit must
1770 be effective before this initial receipt of hazardous waste. The issuing
1771 institution must be an entity that has the authority to issue letters of credit
1772 and whose letter-of-credit operations are regulated and examined by a
1773 federal or state agency.
1774
- 1775 2) The wording of the letter of credit must be that specified in Section
1776 724.251.
1777
- 1778 3) An owner or operator who uses a letter of credit to satisfy the
1779 requirements of this Section must also establish a standby trust fund.
1780 Under the terms of the letter of credit, all amounts paid pursuant to a draft
1781 by the Agency must be deposited by the issuing institution directly into the
1782 standby trust fund in accordance with instructions from the Agency. This
1783 standby trust fund must meet the requirements of the trust fund specified
1784 in subsection (a) of this Section, except as follows:
1785
- 1786 A) An original, signed duplicate of the trust agreement must be
1787 submitted to the Agency with the letter of credit; and
1788
- 1789 B) Unless the standby trust fund is funded pursuant to the
1790 requirements of this Section, the following are not required by
1791 these regulations.
1792
- 1793 i) Payments into the trust fund, as specified in subsection (a)
1794 of this Section;
1795
- 1796 ii) Updating of Schedule A of the trust agreement (as specified

- 1797 in Section 724.251) to show current closure cost estimates;
1798
1799 iii) Annual valuations, as required by the trust agreement; and
1800
1801 iv) Notices of nonpayment, as required by the trust agreement.
1802
1803 4) The letter or credit must be accompanied by a letter from the owner or
1804 operator referring to the letter of credit by number, issuing institution, and
1805 date and providing the following information: the USEPA identification
1806 number, name and address of the facility, and the amount of funds assured
1807 for closure of the facility by the letter of credit.
1808
1809 5) The letter of credit must be irrevocable and issued for a period of at least
1810 one year. The letter of credit must provide that the expiration date will be
1811 automatically extended for a period of at least one year unless, at least 120
1812 days before the current expiration date, the issuing institution notifies both
1813 the owner or operator and the Agency by certified mail of a decision not to
1814 extend the expiration date. Under the terms of the letter of credit, the 120
1815 days will begin on the date when both the owner or operator and the
1816 Agency have received the notice, as evidenced by the return receipts.
1817
1818 6) The letter of credit must be issued in an amount at least equal to the
1819 current closure cost estimate, except as provided in subsection (g) of this
1820 Section.
1821
1822 7) Whenever the current closure cost estimate increases to an amount greater
1823 than the amount of the credit, the owner or operator, within 60 days after
1824 the increase, must either cause the amount of the credit to be increased so
1825 that it at least equals the current closure cost estimate and submit evidence
1826 of such increase to the Agency, or obtain other financial assurance, as
1827 specified in this Section, to cover the increase. Whenever the current
1828 closure cost estimate decreases, the amount of the credit may be reduced
1829 to the amount of the current closure cost estimate following written
1830 approval by the Agency.
1831
1832 8) Following a final judicial determination or Board order finding that the
1833 owner or operator has failed to perform final closure in accordance with
1834 the closure plan and other permit requirements when required to do so, the
1835 Agency may draw on the letter of credit.
1836
1837 9) If the owner or operator does not establish alternative financial assurance,
1838 as specified in this Section, and obtain written approval of such alternative
1839 assurance from the Agency within 90 days after receipt by both the owner

1840 or operator and the Agency of a notice from issuing institution that it has
1841 decided not to extend the letter of credit beyond the current expiration
1842 date, the Agency must draw on the letter of credit. The Agency may delay
1843 the drawing if the issuing institution grants an extension of the term of the
1844 credit. During the last 30 days of any such extension the Agency must
1845 draw on the letter of credit if the owner or operator has failed to provide
1846 alternative financial assurance, as specified in this Section, and obtain
1847 written approval of such assurance from the Agency.
1848

1849 10) The Agency must return the letter of credit to the issuing institution for
1850 termination when either of the following occurs:

1851 A) An owner or operator substitutes alternative financial assurance, as
1852 specified in this Section; or
1853

1854 B) The Agency releases the owner or operator from the requirements
1855 of this Section in accordance with subsection (i) of this Section.
1856

1857 e) Closure insurance.
1858

1859 1) An owner or operator may satisfy the requirements of this Section by
1860 obtaining closure insurance that conforms to the requirements of this
1861 subsection (e) and submitting a certificate of such insurance to the
1862 Agency. An owner or operator of a new facility must submit the
1863 certificate of insurance to the Agency at least 60 days before the date on
1864 which hazardous waste is first received for treatment, storage, or disposal.
1865 The insurance must be effective before this initial receipt of hazardous
1866 waste. At a minimum, the insurer must be licensed to transact the
1867 business of insurance or be eligible to provide insurance as an excess or
1868 surplus lines insurer in one or more States.
1869

1870 2) The wording of the certificate of insurance must be that specified in
1871 Section 724.251.
1872

1873 3) The closure insurance policy must be issued for a face amount at least
1874 equal to the current closure cost estimate, except as provided in subsection
1875 (g) of this Section. The term "face amount" means the total amount the
1876 insurer is obligated to pay under the policy. Actual payments by the
1877 insurer will not change the face amount, although the insurer's future
1878 liability will be lowered by the amount of the payments.
1879

1880 4) The closure insurance policy must guarantee that funds will be available to
1881 close the facility whenever final closure occurs. The policy must also
1882

- 1883 guarantee that, once final closure begins, the insurer will be responsible
 1884 for paying out funds, up to an amount equal to the face amount of the
 1885 policy, upon the direction of the Agency to such party or parties, as the
 1886 Agency specifies.
 1887
- 1888 5) After beginning partial or final closure, an owner or operator or any other
 1889 person authorized to conduct closure may request reimbursement for
 1890 closure expenditures by submitting itemized bills to the Agency. The
 1891 owner or operator may request reimbursements for partial closure only if
 1892 the remaining value of the policy is sufficient to cover the maximum costs
 1893 of closing the facility over its remaining operating life. Within 60 days
 1894 after receiving bills for closure activities, the Agency must instruct the
 1895 insurer to make reimbursement in such amounts, as the Agency specifies
 1896 in writing, if the Agency determines that the partial or final closure
 1897 expenditures are in accordance with the approved closure plan or
 1898 otherwise justified. If the Agency determines that the maximum cost of
 1899 closure over the remaining life of the facility will be significantly greater
 1900 than the face amount of the policy, it must withhold reimbursement of
 1901 such amounts that it deems prudent, until it determines, in accordance with
 1902 subsection (i) of this Section, that the owner or operator is no longer
 1903 required to maintain financial assurance for closure of the facility. If the
 1904 Agency does not instruct the insurer to make such reimbursements, the
 1905 Agency must provide the owner or operator with a detailed written
 1906 statement of reasons.
 1907
- 1908 6) The owner or operator must maintain the policy in full force and effect
 1909 until the Agency consents to termination of the policy by the owner or
 1910 operator, as specified in subsection (e)(10) of this Section. Failure to pay
 1911 the premium, without substitution of alternative financial assurance, as
 1912 specified in this Section, will constitute a significant violation of these
 1913 regulations, warranting such remedy as the Board may impose pursuant to
 1914 the Environmental Protection Act. Such violation will be deemed to begin
 1915 upon receipt by the Agency of a notice of future cancellation, termination
 1916 or failure to renew due to nonpayment of the premium, rather than upon
 1917 the date of expiration.
 1918
- 1919 7) Each policy must contain a provision allowing assignment of the policy to
 1920 a successor owner or operator. Such assignment may be conditional upon
 1921 consent of the insurer, provided such consent is not unreasonably refused.
 1922
- 1923 8) The policy must provide that the insurer may not cancel, terminate, or fail
 1924 to renew the policy except for failure to pay the premium. The automatic
 1925 renewal of the policy must, at a minimum, provide the insured with the

- 1926 option of renewal at the face amount of the expiring policy. If there is a
 1927 failure to pay the premium, the insurer may elect to cancel, terminate, or
 1928 fail to renew the policy by sending notice by certified mail to the owner or
 1929 operator and the Agency. Cancellation, termination, or failure to renew
 1930 may not occur, however, during the 120 days beginning with the date of
 1931 receipt of the notice by both the Agency and the owner or operator, as
 1932 evidenced by the return receipts. Cancellation, termination, or failure to
 1933 renew may not occur, and the policy will remain in full force and effect, in
 1934 the event that on or before the date of expiration one of the following
 1935 occurs:
- 1936
 - 1937 A) The Agency deems the facility abandoned;
 - 1938
 - 1939 B) The permit is terminated or revoked or a new permit is denied;
 - 1940
 - 1941 C) Closure is ordered by the Board or a U.S. district court or other
 - 1942 court of competent jurisdiction;
 - 1943
 - 1944 D) The owner or operator is named as debtor in a voluntary or
 - 1945 involuntary proceeding under 11 USC (Bankruptcy); or
 - 1946
 - 1947 E) The premium due is paid.
 - 1948
 - 1949 9) Whenever the current closure cost estimate increases to an amount greater
 - 1950 than the face amount of the policy, the owner or operator, within 60 days
 - 1951 after the increase, must either cause the face amount to be increased to an
 - 1952 amount at least equal to the current closure cost estimate and submit
 - 1953 evidence of such increase to the Agency, or obtain other financial
 - 1954 assurance, as specified in this Section to cover the increase. Whenever the
 - 1955 current closure cost estimate decreases, the face amount may be reduced to
 - 1956 the amount of the current closure cost estimate following written approval
 - 1957 by the Agency.
 - 1958
 - 1959 10) The Agency must give written consent to the owner or operator that it may
 - 1960 terminate the insurance policy when either of the following occurs:
 - 1961
 - 1962 A) An owner or operator substitutes alternative financial assurance, as
 - 1963 specified in this Section; or
 - 1964
 - 1965 B) The Agency releases the owner or operator from the requirements
 - 1966 of this Section in accordance with subsection (i) of this Section.
 - 1967
 - 1968 f) Financial test and corporate guarantee for closure.

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- 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 located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
 - B) The owner or operator must have the following:
 - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure estimates and the current plugging and abandonment cost estimates.

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- 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 1-4 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 1-4 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) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.

- 4) 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 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.

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- 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) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (f)(1) of this Section, 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) 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.

- 10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a

"substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (f)(1) through (f)(8) of this Section, must comply with the terms of the corporate guarantee, and the wording of the corporate guarantee must be that specified in Section 724.251. The 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) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other 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) 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) 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

2141 the single mechanism, that must provide financial assurance for an amount at least
 2142 equal to the current closure cost estimate. If an owner or operator uses a trust
 2143 fund in combination with a surety bond or a letter of credit, it may use the trust
 2144 fund as the standby trust fund for the other mechanisms. A single standby trust
 2145 fund may be established for two or more mechanisms. The Agency may use any
 2146 or all of the mechanisms to provide for closure of the facility.

2147
 2148 h) Use of a financial mechanism for multiple facilities. An owner or operator may
 2149 use a financial assurance mechanism specified in this Section to meet the
 2150 requirements of this Section for more than one facility. Evidence of financial
 2151 assurance submitted to the Agency must include a list showing, for each facility,
 2152 the USEPA identification number, name, address, and the amount of funds for
 2153 closure assured by the mechanism. The amount of funds available through the
 2154 mechanism must be no less than the sum of funds that would be available if a
 2155 separate mechanism had been established and maintained for each facility. The
 2156 amount of funds available to the Agency must be sufficient to close all of the
 2157 owner or operator's facilities. In directing funds available through the mechanism
 2158 for closure of any of the facilities covered by the mechanism, the Agency may
 2159 direct only the amount of funds designated for that facility, unless the owner or
 2160 operator agrees to the use of additional funds available under the mechanism.

2161
 2162 i) Release of the owner or operator from the requirements of this Section. Within
 2163 60 days after receiving certifications from the owner or operator and a qualified
 2164 Professional Engineer that final approved closure has been accomplished in
 2165 accordance with the closure plan, the Agency must notify the owner or operator in
 2166 writing that it is no longer required by this Section to maintain financial assurance
 2167 for closure of the facility, unless the Agency determines that closure has not been
 2168 in accordance with the approved closure plan. The Agency must provide the
 2169 owner or operator a detailed written statement of any such determination that
 2170 closure has not been in accordance with the approved closure plan.

2171
 2172 j) Appeal. The following Agency actions are deemed to be permit modifications or
 2173 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 2174 702.184(e)(3)):

- 2175
 2176 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 2177 credit, or insurance;
- 2178
 2179 2) Requiring alternative assurance upon a finding that an owner or operator
 2180 or parent corporation no longer meets a financial test.

2181 (Source: Amended at 35 Ill. Reg. _____, effective _____)
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 2183

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 724.274 Inspections

At least weekly, the owner or operator must inspect areas where containers are stored, ~~except for the owner or operator of a Performance Track member facility, which may conduct inspections at least once each month, after approval by the Agency. To apply for reduced inspection frequencies, the owner or operator of the Performance Track member facility must follow the procedures identified in Section 724.115(b)(5).~~ The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

BOARD NOTE: See Sections 724.115(c) and 724.271 for remedial action required if deterioration or leaks are detected.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART J: TANK SYSTEMS

Section 724.295 Inspections

- a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.
- b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.

BOARD NOTE: Section 724.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 724.296 requires the owner or operator to notify the Agency within 24 hours of confirming a leak. Also federal 40 CFR 302.6 may require the owner or operator to notify the National Response Center of a release.

- c) In addition, except as noted under subsection (d) of this Section, the owner or operator must inspect the following at least once each operating day:
 - 1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
 - 2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary

2227 containment system (e.g., dikes) to detect erosion or signs of releases of
 2228 hazardous waste (e.g., wet spots, dead vegetation).
 2229

2230 d) Owners or operators of tank systems that either use leak detection systems to alert
 2231 facility personnel to leaks, or implement established workplace practices to ensure
 2232 leaks are promptly identified, must inspect at least weekly those areas described
 2233 in subsections (c)(1) and (c)(2) of this Section. Use of the alternate inspection
 2234 schedule must be documented in the facility's operating record. This
 2235 documentation must include a description of the established workplace practices
 2236 at the facility.
 2237

2238 e) This subsection (e) corresponds with 40 CFR 264.195(e), which became obsolete
 2239 when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741
 2240 (May 14, 2009). USEPA has recognized that program-related rules are no longer
 2241 effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement
 2242 maintains structural consistency with the corresponding federal requirements.
 2243 ~~Performance Track member facilities may inspect on a less frequent basis, upon~~
 2244 ~~approval by the Director, but must inspect at least once each month. To apply for~~
 2245 ~~a less than weekly inspection frequency, the Performance Track member facility~~
 2246 ~~must follow the procedures described in Section 724.115(b)(5).~~
 2247

2248 f) Ancillary equipment that is not provided with secondary containment, as
 2249 described in Section 724.293(f)(1) through (f)(4), must be inspected at least once
 2250 each operating day.
 2251

2252 g) The owner or operator must inspect cathodic protection systems, if present,
 2253 according to, at a minimum, the following schedule to ensure that they are
 2254 functioning properly:
 2255

2256 1) The proper operation of the cathodic protection system must be confirmed
 2257 within six months after initial installation and annually thereafter; and
 2258

2259 2) All sources of impressed current must be inspected or tested, as
 2260 appropriate, at least bimonthly (i.e., every other month).
 2261

2262 BOARD NOTE: The practices described in "Control of External Corrosion on
 2263 Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE
 2264 Recommended Practice RP0285-85 and "Cathodic Protection of Underground
 2265 Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632,
 2266 each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used,
 2267 where applicable, as guidelines in maintaining and inspecting cathodic protection
 2268 systems.
 2269

2270 h) The owner or operator must document in the operating record of the facility an
2271 inspection of those items in subsections (a) through (c) of this Section.
2272

2273 (Source: Amended at 35 Ill. Reg. _____, effective _____)
2274

2275 SUBPART N: LANDFILLS
2276

2277 **Section 724.414 Special Requirements for Bulk and Containerized Liquids**
2278

2279 a) The placement of bulk or non-containerized liquid hazardous waste or hazardous
2280 waste containing free liquids (whether or not sorbents have been added) in any
2281 landfill is prohibited.
2282

2283 b) To demonstrate the absence or presence of free liquids in either a containerized or
2284 a bulk waste, the following test must be used: Method 9095B (Paint Filter
2285 Liquids Test), as described in "Test Methods for Evaluating Solid Wastes,
2286 Physical/Chemical Methods," USEPA publication number EPA-530/SW-846,
2287 incorporated by reference in 35 Ill. Adm. Code 720.111(a).
2288

2289 c) Containers holding free liquids must not be placed in a landfill unless the
2290 following is true:
2291

2292 1) All free-standing liquid fulfills one of the following:
2293

2294 A) It has been removed by decanting or other methods;
2295

2296 B) It has been mixed with sorbent or solidified so that free-standing
2297 liquid is no longer observed; or
2298

2299 C) It has been otherwise eliminated; or
2300

2301 2) The container is very small, such as an ampule; or
2302

2303 3) The container is designed to hold free liquids for use other than storage,
2304 such as a battery or capacitor; or
2305

2306 4) The container is a lab pack, as defined in Section 724.416, and is disposed
2307 of in accordance with Section 724.416.
2308

2309 d) Sorbents used to treat free liquids to be disposed of in landfills must be
2310 nonbiodegradable. Nonbiodegradable sorbents are the following: materials listed
2311 or described in subsection ~~(d)(1)(e)(1)~~ of this Section; materials that pass one of
2312 the tests in subsection (e)(2) of this Section; or materials that are determined by

2313 the Board to be nonbiodegradable through the adjusted standard procedure of 35
2314 Ill. Adm. Code 104.

2315
2316 1) Nonbiodegradable sorbents are the following:

- 2317
2318 A) Inorganic minerals, other inorganic materials, and elemental
2319 carbon (e.g., aluminosilicates (clays, smectites, Fuller's earth,
2320 bentonite, calcium bentonite, montmorillonite, calcined
2321 montmorillonite, kaolinite, micas (illite), vermiculites, zeolites,
2322 etc.), calcium carbonate (organic free limestone),
2323 oxides/hydroxides (alumina, lime, silica (sand), diatomaceous
2324 earth, etc.), perlite (volcanic glass), expanded volcanic rock,
2325 volcanic ash, cement kiln dust, fly ash, rice hull ash, activated
2326 charcoal (activated carbon), etc.); or
2327
2328 B) High molecular weight synthetic polymers (e.g., polyethylene,
2329 high density polyethylene (HDPE), polypropylene, polystyrene,
2330 polyurethane, polyacrylate, polynorborene, polyisobutylene,
2331 ground synthetic rubber, cross-linked allylstrene and tertiary butyl
2332 copolymers, etc.). This does not include polymers derived from
2333 biological material or polymers specifically designed to be
2334 degradable; or
2335
2336 C) Mixtures of these nonbiodegradable materials.

2337
2338 2) Tests for nonbiodegradable sorbents are the following:

- 2339
2340 A) The sorbent material is determined to be nonbiodegradable under
2341 ASTM Method G21-70 (1984a) (Standard Practice for
2342 Determining Resistance of Synthetic Polymer Materials to Fungi),
2343 incorporated by reference in 35 Ill. Adm. Code 720.111(a);
2344
2345 B) The sorbent material is determined to be nonbiodegradable under
2346 ASTM Method G22-76 (1984b) (Standard Practice for
2347 Determining Resistance of Plastics to Bacteria), incorporated by
2348 reference in 35 Ill. Adm. Code 720.111(a); or
2349
2350 C) The sorbent material is determined to be non-biodegradable under
2351 OECD Guideline for Testing of Chemicals, Method 301B (CO₂
2352 Evolution (Modified Sturm Test)), incorporated by reference in 35
2353 Ill. Adm. Code 720.111(a).

2354
2355 e) The placement of any liquid that is not a hazardous waste in a hazardous waste

2356 landfill is prohibited (35 Ill. Adm. Code 729.311), unless the Board finds that the
2357 owner or operator has demonstrated the following in a petition for an adjusted
2358 standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm.
2359 Code 101 and 104:

- 2360
- 2361 1) The only reasonably available alternative to the placement in a hazardous
2362 waste landfill is placement in a landfill or unlined surface impoundment,
2363 whether or not permitted or operating under interim status, that contains or
2364 which may reasonably be anticipated to contain hazardous waste; and
2365
 - 2366 2) Placement in the hazardous waste landfill will not present a risk of
2367 contamination of any "underground source of drinking water" (as that term
2368 is defined in 35 Ill. Adm. Code 702.110).
- 2369

2370 (Source: Amended at 35 Ill. Reg. _____, effective _____)

2371

2372 **Section 724.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums**
2373 **(Lab Packs)**

2374

2375 Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill
2376 if the following requirements are met:

- 2377
- 2378 a) Hazardous waste must be packaged in non-leaking inside containers. The inside
2379 containers must be of a design and constructed of a material that will not react
2380 dangerously with, be decomposed by, or be ignited by the contained waste. The
2381 inside containers must be tightly and securely sealed. The inside containers must
2382 be of the size and type specified in the USDOT hazardous materials regulations
2383 (49 CFR 173 (Shippers – General Requirements for Shipments and Packages),
2384 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each
2385 incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations
2386 specify a particular inside container for the waste.
2387
 - 2388 b) The inside containers must be overpacked in an open head USDOT-specification
2389 metal shipping container (49 CFR 178 (Specifications for Packagings) and 179
2390 (Specifications for Tank Cars)) of no more than 416 liter (110 gallon) capacity
2391 and surrounded by, at a minimum, a sufficient quantity of sorbent material,
2392 determined to be nonbiodegradable in accordance with Section
2393 724.414(d)724.414(e), to completely sorb all of the liquid contents of the inside
2394 containers. The metal outer container must be full after packing with inside
2395 containers and sorbent material.
2396
 - 2397 c) In accordance with Section 724.117(b), the sorbent material used must not be
2398 capable of reacting dangerously with, being decomposed by, or being ignited by

- 2399 the contents of the inside containers, in accordance with Section 724.117(b).
2400
2401 d) Incompatible waste, as defined in 35 Ill. Adm. Code 720.110, must not be placed
2402 in the same outside container.
2403
2404 e) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in 35 Ill.
2405 Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to
2406 packaging in accordance with subsections (a) through (d) of this Section.
2407 Cyanide- and sulfide-bearing reactive waste may be packed in accordance with
2408 subsections (a) through (d) of this Section without first being treated or rendered
2409 non-reactive.
2410
2411 f) Such disposal is in compliance with 35 Ill. Adm. Code 728. Persons who
2412 incinerate lab packs according to 35 Ill. Adm. Code 728.142(c)(1) may use fiber
2413 drums in place of metal outer containers. Such fiber drums must meet the
2414 USDOT specifications in 49 CFR 173.12 (Exceptions for Shipments of Waste
2415 Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and be
2416 overpacked according to the requirements of subsection (b) of this Section.
2417
2418 g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid
2419 wastes or wastes containing free liquids allowed under this Section is restricted to
2420 labwaste and non-periodic waste, as those terms are defined in that Part.
2421

2422 (Source: Amended at 35 Ill. Reg. _____, effective _____)
2423

2424 **SUBPART S: SPECIAL PROVISIONS FOR CLEANUP**
2425

2426 **Section 724.652 Corrective Action Management Units**
2427

- 2428 a) To implement remedies pursuant to Section 724.201 or RCRA section 3008(h), or
2429 to implement remedies at a permitted facility that is not subject to Section
2430 724.201, the Agency may designate an area at the facility as a corrective action
2431 management unit pursuant to the requirements in this Section. "Corrective action
2432 management unit" or "CAMU" means an area within a facility that is used only
2433 for managing CAMU-eligible wastes for implementing corrective action or
2434 cleanup at that facility. A CAMU must be located within the contiguous property
2435 under the control of the owner or operator where the wastes to be managed in the
2436 CAMU originated. One or more CAMUs may be designated at a facility.
2437
2438 1) "CAMU-eligible waste" means the following:
2439
2440 A) All solid and hazardous wastes, and all media (including
2441 groundwater, surface water, soils, and sediments) and debris, that

2442 are managed for implementing cleanup. As-generated wastes
 2443 (either hazardous or non-hazardous) from ongoing industrial
 2444 operations at a site are not CAMU-eligible wastes.
 2445

2446 B) Wastes that would otherwise meet the description in subsection
 2447 (a)(1)(A) of this Section are not CAMU-eligible waste where the
 2448 following is true:
 2449

2450 i) The wastes are hazardous waste found during cleanup in
 2451 intact or substantially intact containers, tanks, or other non-
 2452 land-based units found above ground, unless the wastes are
 2453 first placed in the tanks, containers, or non-land-based units
 2454 as part of cleanup, or the containers or tanks are excavated
 2455 during the course of cleanup; or
 2456

2457 ii) The Agency makes the determination in subsection (a)(2)
 2458 of this Section to prohibit the wastes from management in a
 2459 CAMU.
 2460

2461 C) Notwithstanding subsection (a)(1)(A) of this Section, where
 2462 appropriate, as-generated non-hazardous waste may be placed in a
 2463 CAMU where such waste is being used to facilitate treatment or
 2464 the performance of the CAMU.
 2465

2466 2) The Agency must prohibit the placement of waste in a CAMU where the
 2467 Agency determines that the wastes have not been managed in compliance
 2468 with applicable land disposal treatment standards of 35 Ill. Adm. Code
 2469 728, applicable unit design requirements of this Part or 35 Ill. Adm. Code
 2470 725, or other applicable requirements of this Subtitle G, and that the non-
 2471 compliance likely contributed to the release of the waste.
 2472

2473 3) Prohibition against placing liquids in a CAMU.
 2474

2475 A) The placement of bulk or noncontainerized liquid hazardous waste
 2476 or free liquids contained in hazardous waste (whether or not
 2477 sorbents have been added) in any CAMU is prohibited except
 2478 where placement of such wastes facilitates the remedy selected for
 2479 the waste.
 2480

2481 B) The requirements in Section ~~724.414(c)~~724.414(d) for placement
 2482 of containers holding free liquids in landfills apply to placement in
 2483 a CAMU, except where placement facilitates the remedy selected
 2484 for the waste.

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- 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(e)~~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(b)~~724.414(e)~~. Sorbents used to treat free liquids in a CAMU must meet the requirements of Section 724.414(d)~~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 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;

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- 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:

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- 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 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 1×10^{-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

2614 CAMU for storage or treatment only in accordance with subsection (f) of
2615 this Section, CAMU-eligible wastes that, absent this Section, would be
2616 subject to the treatment requirements of 35 Ill. Adm. Code 728, and that
2617 the Agency determines contain principal hazardous constituents must be
2618 treated to the standards specified in subsection (e)(4)(C) of this Section.

2619
2620 A) Principal hazardous constituents are those constituents that the
2621 Agency determines pose a risk to human health and the
2622 environment substantially higher than the cleanup levels or goals at
2623 the site.

2624
2625 i) In general, the Agency must designate as principal
2626 hazardous constituents those contaminants specified in
2627 subsection (e)(4)(H) of this Section.

2628
2629 BOARD NOTE: The Board has codified 40 CFR
2630 264.552(e)(4)(i)(A)(1) and (e)(4)(i)(A)(2) as subsections
2631 (e)(4)(H)(i) and (e)(4)(H)(ii) of this Section in order to
2632 comply with Illinois Administrative Code codification
2633 requirements.

2634
2635 ii) The Agency must also designate constituents as principal
2636 hazardous constituents, where appropriate, when risks to
2637 human health and the environment posed by the potential
2638 migration of constituents in wastes to groundwater are
2639 substantially higher than cleanup levels or goals at the site.
2640 When making such a designation, the Agency must
2641 consider such factors as constituent concentrations, and fate
2642 and transport characteristics under site conditions.

2643
2644 iii) The Agency must also designate other constituents as
2645 principal hazardous constituents that the Agency
2646 determines pose a risk to human health and the
2647 environment substantially higher than that posed by the
2648 cleanup levels or goals at the site.

2649
2650 B) In determining which constituents are "principal hazardous
2651 constituents," the Agency must consider all constituents that,
2652 absent this Section, would be subject to the treatment requirements
2653 in 35 Ill. Adm. Code 728.

2654
2655 C) Waste that the Agency determines contains principal hazardous
2656 constituents must meet treatment standards determined in

2657 accordance with subsection (e)(4)(D) or (e)(4)(E) of this Section.
 2658

2659 D) Treatment standards for wastes placed in a CAMU.
 2660

2661 i) For non-metals, treatment must achieve 90 percent
 2662 reduction in total principal hazardous constituent
 2663 concentrations, except as provided by subsection
 2664 (e)(4)(D)(iii) of this Section.
 2665

2666 ii) For metals, treatment must achieve 90 percent reduction in
 2667 principal hazardous constituent concentrations as measured
 2668 in leachate from the treated waste or media (tested
 2669 according to the TCLP) or 90 percent reduction in total
 2670 constituent concentrations (when a metal removal treatment
 2671 technology is used), except as provided by subsection
 2672 (e)(4)(D)(iii) of this Section.
 2673

2674 iii) When treatment of any principal hazardous constituent to a
 2675 90 percent reduction standard would result in a
 2676 concentration less than 10 times the Universal Treatment
 2677 Standard for that constituent, treatment to achieve
 2678 constituent concentrations less than 10 times the Universal
 2679 Treatment Standard is not required. Universal Treatment
 2680 Standards are identified in Table U to 35 Ill. Adm. Code
 2681 728.
 2682

2683 iv) For waste exhibiting the hazardous characteristic of
 2684 ignitability, corrosivity, or reactivity, the waste must also
 2685 be treated to eliminate these characteristics.
 2686

2687 v) For debris, the debris must be treated in accordance with 35
 2688 Ill. Adm. Code 728.145, or by methods or to levels
 2689 established pursuant to subsections (e)(4)(D)(i) through
 2690 (e)(4)(D)(iv) or subsection (e)(4)(E) of this Section,
 2691 whichever the Agency determines is appropriate.
 2692

2693 vi) Alternatives to TCLP. For metal bearing wastes for which
 2694 metals removal treatment is not used, the Agency must
 2695 specify a leaching test other than Method 1311 (Toxicity
 2696 Characteristic Leaching Procedure), in "Test Methods for
 2697 Evaluating Solid Waste, Physical/Chemical Methods,"
 2698 USEPA publication number EPA-530/SW-846,
 2699 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 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 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.

- 2743 F) The treatment required by the treatment standards must be
2744 completed prior to, or within a reasonable time after, placement in
2745 the CAMU.
2746
- 2747 G) For the purpose of determining whether wastes placed in a CAMU
2748 have met site-specific treatment standards, the Agency must
2749 specify a subset of the principal hazardous constituents in the
2750 waste as analytical surrogates for determining whether treatment
2751 standards have been met for other principal hazardous constituents
2752 if it determines that the specification is appropriate based on the
2753 degree of difficulty of treatment and analysis of constituents with
2754 similar treatment properties.
2755
- 2756 H) Principal hazardous constituents that the Agency must designate
2757 are the following:
2758
 - 2759 i) Carcinogens that pose a potential direct risk from ingestion
2760 or inhalation at the site at or above 10^{-3} ; and
2761
 - 2762 ii) Non-carcinogens that pose a potential direct risk from
2763 ingestion or inhalation at the site an order of magnitude or
2764 greater over their reference dose.
2765
- 2766 I) Circumstances relating to the long-term protection offered by
2767 engineering design of the CAMU and related engineering controls
2768 are the following:
2769
 - 2770 i) Where the treatment standards in subsection (e)(4)(D) of
2771 this Section are substantially met and the principal
2772 hazardous constituents in the waste or residuals are of very
2773 low mobility;
2774
 - 2775 ii) Where cost-effective treatment has been used and the
2776 CAMU meets the Subtitle C liner and leachate collection
2777 requirements for new land disposal units at Section
2778 724.401(c) and (d);
2779
 - 2780 iii) Where, after review of appropriate treatment technologies,
2781 the Board determines that cost-effective treatment is not
2782 reasonably available, and the CAMU meets the Subtitle C
2783 liner and leachate collection requirements for new land
2784 disposal units at Section 724.401(c) and (d);
2785

- 2786 iv) Where cost-effective treatment has been used and the
2787 principal hazardous constituents in the treated wastes are of
2788 very low mobility; or
- 2789
- 2790 v) Where, after review of appropriate treatment technologies,
2791 the Board determines that cost-effective treatment is not
2792 reasonably available, the principal hazardous constituents
2793 in the wastes are of very low mobility, and either the
2794 CAMU meets or exceeds the liner standards for new,
2795 replacement, or a laterally expanded CAMU in subsections
2796 (e)(3)(A) and (e)(3)(B) of this Section or the CAMU
2797 provides substantially equivalent or greater protection.
2798
- 2799 5) Except as provided in subsection (f) of this Section, requirements for
2800 groundwater monitoring and corrective action that are sufficient to do the
2801 following:
2802
 - 2803 A) Continue to detect and to characterize the nature, extent,
2804 concentration, direction, and movement of existing releases of
2805 hazardous constituents in groundwater from sources located within
2806 the CAMU;
 - 2807
 - 2808 B) Detect and subsequently characterize releases of hazardous
2809 constituents to groundwater that may occur from areas of the
2810 CAMU in which wastes will remain in place after closure of the
2811 CAMU; and
 - 2812
 - 2813 C) Require notification to the Agency and corrective action as
2814 necessary to adequately protect human health and the environment
2815 for releases to groundwater from the CAMU.
2816
- 2817 6) Except as provided in subsection (f) of this Section, closure and post-
2818 closure requirements, as follows:
2819
 - 2820 A) Closure of corrective action management units must do the
2821 following:
2822
 - 2823 i) It must minimize the need for further maintenance; and
 - 2824
 - 2825 ii) It must control, minimize, or eliminate, to the extent
2826 necessary to adequately protect human health and the
2827 environment, for areas where wastes remain in place, post-
2828 closure escape of hazardous wastes, hazardous constituents,

- 2829 leachate, contaminated runoff, or hazardous waste
2830 decomposition products to the ground, to surface waters, or
2831 to the atmosphere.
2832
- 2833 B) Requirements for closure of a CAMU must include the following,
2834 as appropriate and as deemed necessary by the Agency for a given
2835 CAMU:
2836
- 2837 i) Requirements for excavation, removal, treatment or
2838 containment of wastes; and
2839
- 2840 ii) Requirements for removal and decontamination of
2841 equipment, devices, and structures used in CAMU-eligible
2842 waste management activities within the CAMU.
2843
- 2844 C) In establishing specific closure requirements for a CAMU pursuant
2845 to this subsection (e), the Agency must consider the following
2846 factors:
2847
- 2848 i) CAMU characteristics;
2849
- 2850 ii) Volume of wastes that remain in place after closure;
2851
- 2852 iii) Potential for releases from the CAMU;
2853
- 2854 iv) Physical and chemical characteristics of the waste;
2855
- 2856 v) Hydrogeological and other relevant environmental
2857 conditions at the facility that may influence the migration
2858 of any potential or actual releases; and
2859
- 2860 vi) Potential for exposure of humans and environmental
2861 receptors if releases were to occur from the CAMU.
2862
- 2863 D) Cap requirements:
2864
- 2865 i) At final closure of the CAMU, for areas in which wastes
2866 will remain with constituent concentrations at or above
2867 remedial levels or goals applicable to the site after closure
2868 of the CAMU, the owner or operator must cover the
2869 CAMU with a final cover designed and constructed to meet
2870 the performance criteria listed in subsection (e)(6)(F) of
2871 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.

- 2880 ii) The Agency must apply cap requirements that deviate from
2881 those prescribed in subsection (e)(6)(D)(i) of this Section if
2882 it determines that the modifications are needed to facilitate
2883 treatment or the performance of the CAMU (e.g., to
2884 promote biodegradation).

- 2886 E) Post-closure requirements as necessary to adequately protect
2887 human health and the environment, to include, for areas where
2888 wastes will remain in place, monitoring and maintenance activities,
2889 and the frequency with which such activities must be performed to
2890 ensure the integrity of any cap, final cover, or other containment
2891 system.

- 2893 F) The final cover design and performance criteria are as follows:
 - 2895 i) The final cover must provide~~Provide~~ long-term
2896 minimization of migration of liquids through the closed
2897 unit;
 - 2899 ii) The final cover must function~~Function~~ with minimum
2900 maintenance;
 - 2902 iii) The final cover must promote~~Promote~~ drainage and
2903 minimize erosion or abrasion of the cover;
 - 2905 iv) The final cover must accommodate~~Accommodate~~ settling
2906 and subsidence so that the cover's integrity is maintained;
2907 and
 - 2909 v) The final cover must have~~Have~~ a permeability less than or
2910 equal to the permeability of any bottom liner system or
2911 natural subsoils present.

- 2913 f) A CAMU used for storage or treatment only is a CAMU in which wastes will not
2914 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 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 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.

2958 k) The designation of a CAMU does not change the Agency's existing authority to
2959 address cleanup levels, media-specific points of compliance to be applied to
2960 remediation at a facility, or other remedy selection decisions.
2961

2962 (Source: Amended at 35 Ill. Reg. _____, effective _____)
2963

2964 SUBPART DD: CONTAINMENT BUILDINGS
2965

2966 **Section 724.1101 Design and Operating Standards**
2967

2968 a) All containment buildings must comply with the following design and operating
2969 standards:
2970

2971 1) The containment building must be completely enclosed with a floor, walls,
2972 and a roof to prevent exposure to the elements (e.g., precipitation, wind,
2973 run on) and to assure containment of managed wastes.
2974

2975 2) The floor and containment walls of the unit, including the secondary
2976 containment system if required under subsection (b) of this Section, must
2977 be designed and constructed of materials of sufficient strength and
2978 thickness to support themselves, the waste contents, and any personnel and
2979 heavy equipment that operate within the unit, and to prevent failure due to
2980 pressure gradients, settlement, compression, or uplift, physical contact
2981 with the hazardous wastes to which they are exposed; climatic conditions;
2982 and the stresses of daily operation, including the movement of heavy
2983 equipment within the unit and contact of such equipment with containment
2984 walls. The unit must be designed so that it has sufficient structural
2985 strength to prevent collapse or other failure. All surfaces to be in contact
2986 with hazardous wastes must be chemically compatible with those wastes.
2987 The containment building must meet the structural integrity requirements
2988 established by professional organizations generally recognized by the
2989 industry such as the American Concrete Institute (ACI) and the American
2990 Society of Testing Materials (ASTM). If appropriate to the nature of the
2991 waste management operation to take place in the unit, an exception to the
2992 structural strength requirement may be made for light-weight doors and
2993 windows that meet the following criteria:
2994

2995 A) They provide an effective barrier against fugitive dust emissions
2996 under subsection (c)(1)(C) of this Section; and
2997

2998 B) The unit is designed and operated in a fashion that assures that
2999 wastes will not actually come in contact with these openings.
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- 3) Incompatible hazardous wastes or treatment reagents must not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail.
- 4) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.
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- b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination, or other appropriate means), the owner or operator must include the following:
- 3015
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3018
- 1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).
- 3019
3020
3021
- 2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building, as follows:
- 3022
3023
3024
- A) The primary barrier must be sloped to drain liquids to the associated collection system; and
- 3025
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- B) Liquids and waste must be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.
- 3029
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- 3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.
- 3035
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3038
- A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:
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3040
3041
- i) It is constructed with a bottom slope of 1 percent or more; and
- 3042
3043
- ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a

3044 thickness of 12 inches (30.5 cm) or more, or constructed of
 3045 synthetic or geonet drainage materials with a transmissivity
 3046 of 3×10^{-5} m²/sec or more.

3047
 3048 B) If treatment is to be conducted in the building, an area in which
 3049 such treatment will be conducted must be designed to prevent the
 3050 release of liquids, wet materials, or liquid aerosols to other portions
 3051 of the building.

3052
 3053 C) The secondary containment system must be constructed of
 3054 materials that are chemically resistant to the waste and liquids
 3055 managed in the containment building and of sufficient strength and
 3056 thickness to prevent collapse under the pressure exerted by
 3057 overlaying materials and by any equipment used in the
 3058 containment building. (Containment buildings can serve as
 3059 secondary containment systems for tanks placed within the
 3060 building under certain conditions. A containment building can
 3061 serve as an external liner system for a tank, provided it meets the
 3062 requirements of Section 724.193(e)(1). In addition, the
 3063 containment building must meet the requirements of Section
 3064 724.193(b) and Sections 724.193(c)(1) and (c)(2) to be an
 3065 acceptable secondary containment system for a tank.)
 3066

3067 4) For existing units other than 90-day generator units, USEPA may delay
 3068 the secondary containment requirement for up to two years, based on a
 3069 demonstration by the owner or operator that the unit substantially meets
 3070 the standards of this Subpart DD. In making this demonstration, the
 3071 owner or operator must have done the following:

3072
 3073 A) Provided written notice to USEPA of their request by November
 3074 16, 1992. This notification must have described the unit and its
 3075 operating practices with specific reference to the performance of
 3076 existing systems, and specific plans for retrofitting the unit with
 3077 secondary containment;

3078
 3079 B) Responded to any comments from USEPA on these plans within
 3080 30 days; and

3081
 3082 C) Fulfilled the terms of the revised plans, if such plans are approved
 3083 by USEPA.

3084
 3085 c) An owner or operator of a containment building must do the following:
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- 1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum:
 - A) Maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be release from the primary barrier;
 - B) Maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;
 - C) Take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and
 - D) Take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods)), incorporated by reference in 35 Ill. Adm. Code 720.111(b). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator, etc.) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv) (2005), USEPA cites "40 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (Aug. 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. While 40 CFR 60.292 of the federal regulations pertains to control of fugitive dust emissions, that provision is limited in its application to glass melting furnaces. The Board has chosen to use the general citation: "40 CFR 60."
 - 2) It must obtain and keep on site a certification by a qualified Professional Engineer that the containment building design meets the requirements of subsections (a) through (c) of this Section.

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- 3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures:
 - A) Upon detection of a condition that has led to a release of hazardous wastes (e.g., upon detection of leakage from the primary barrier) the owner or operator must do the following:
 - i) Enter a record of the discovery in the facility operating record;
 - ii) Immediately remove the portion of the containment building affected by the condition from service;
 - iii) Determine what steps must be taken to repair the containment building, remove any leakage from the secondary collection system, and establish a schedule for accomplishing the cleanup and repairs; and
 - iv) Within seven days after the discovery of the condition, notify the Agency in writing of the condition, and within 14 working days, provide a written notice to the Agency with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.
 - B) The Agency must review the information submitted, make a determination in accordance with Section 34 of the Act, regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing.
 - C) Upon completing all repairs and cleanup the owner and operator must notify the Agency in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with subsection (c)(3)(A)(iv) of this Section.
 - 4) It must inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring and leak detection equipment, as well as the containment building and the area immediately

3173 surrounding the containment building, to detect signs of releases of
3174 hazardous waste except that the owner or operator of a Performance Track
3175 member facility must inspect the record at least once each month after
3176 approval by the Agency. To apply for a reduced monitoring frequency,
3177 the owner or operator of a Performance Track member facility must
3178 follow the procedures described in Section 724.115(b)(5).
3179

- 3180 d) For a containment building that contains both areas with and without secondary
3181 containment, the owner or operator must do the following:
3182
- 3183 1) Design and operate each area in accordance with the requirements
3184 enumerated in subsections (a) through (c) of this Section;
3185
 - 3186 2) Take measures to prevent the release of liquids or wet materials into areas
3187 without secondary containment; and
3188
 - 3189 3) Maintain in the facility's operating log a written description of the
3190 operating procedures used to maintain the integrity of areas without
3191 secondary containment.
3192
- 3193 e) Notwithstanding any other provision of this Subpart DD, the Agency must, in
3194 writing, allow the use of alternatives to the requirements for secondary
3195 containment for a permitted containment building where the Agency has
3196 determined that the facility owner or operator has adequately demonstrated that
3197 the only free liquids in the unit are limited amounts of dust suppression liquids
3198 required to meet occupational health and safety requirements, and where
3199 containment of managed wastes and liquids can be assured without a secondary
3200 containment system.
3201

3202 (Source: Amended at 35 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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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill.

Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. _____, 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) This Part applies to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued pursuant to the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401 et seq.) only to the extent they are included in a RCRA permit by rule granted to such a person 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) This Part 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) This Part 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 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) This Part does not apply to the following:

1) The owner or operator of a facility permitted by the Agency 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 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 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 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 pursuant to 35 Ill. Adm. Code 733 when handling the following universal wastes:

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

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

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

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

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 this Part applies to the storage of military munitions classified as solid waste pursuant to 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738.

j) 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 Subparts B, C, and D of this Part, the owner or

operator of a remediation waste management site must comply with the following requirements:

1) The owner or operator must obtain a USEPA identification number by applying to USEPA Region 5 using USEPA Form 8700-12, as described in Section 724.111;

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 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 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 35 Ill. Reg. _____, effective _____)

SUBPART B: GENERAL FACILITY STANDARDS

Section 724.111 USEPA Identification Number

Every facility owner or operator must apply to USEPA Region 5 for a USEPA identification number ~~in accordance with the USEPA notification procedures~~ using USEPA Form 8700-12. The facility owner or operator must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA Region 5.

~~BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification. The federal instructions require that an owner or operator file notice for an Illinois facility file that notice with the Agency, Bureau of Land (telephone: 217-782-6762).~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.112 Required Notices

a) Receipt from a foreign source.

1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Regional Administrator in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 must provide a copy of the ~~tracking~~-movement document bearing all required signatures to the ~~notifier~~-foreign exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance, ~~Enforcement-Planning, Targeting and Data (2222A)~~ Assurance Division (2254A), Environmental Protection Agency, ~~401 M St., SW,~~ 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to the competent authorities of all other ~~concerned~~-countries concerned within three working days ~~of~~after receipt of the shipment. The original of the signed ~~tracking~~-movement document must be maintained at the facility for at least three years. In addition, ~~such~~the owner or operator must send a certificate of recovery to the foreign exporter, to the competent authority of the country of export, to USEPA's Office of Enforcement and Compliance Assurance at the above address by mail, by e-mail without a digital signature followed by mail, or by fax followed by mail. The owner or operator must complete this sending of a certificate of recovery as soon as possible, but no later than 30 days after the completion of recovery, and no later than one calendar year following the receipt of the hazardous waste.

b) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that the owner or operator has the appropriate permits for, and will accept, the waste that the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

c) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this Part and 35 Ill. Adm. Code 702 and 703.

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

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.115 General Inspection Requirements

a) The owner or operator must conduct inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator must inspect the facility for malfunctions

and deterioration, operator errors, and discharges that may be causing or may lead to either of the following:

- 1) Release of hazardous waste constituents to the environment; or
- 2) A threat to human health.

b) Inspection schedule.

1) The 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.

2) The owner or operator must keep this schedule at the facility.

3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

4) The frequency of inspection 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 operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, ~~except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section.~~ At a minimum, the inspection schedule must include the items and frequencies called for in Sections 724.274, 724.293, 724.295, 724.326, 724.354, 724.378, 724.403, 724.447, 724.702, 724.933, 724.952, 724.953, 724.958, and 724.983 through 724.990, where applicable.

BOARD NOTE: 35 Ill. Adm. Code 703 requires the inspection schedule to be submitted with Part B of the permit application. The Agency must evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, the Agency may modify or amend the schedule as may be necessary.

5) ~~The owner or operator of a Performance Track member facility that chooses to reduce its inspection frequency must fulfill the following requirements:~~ This subsection (b)(5) corresponds with 40 CFR 264.15(b)(5), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, ~~92-12992~~, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

A) ~~It must submit a request for a Class 1 permit modification with prior approval to the Agency. The modification request must identify its facility as a member of the National Environmental Performance Track Program, and it must identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as its facility is a Performance Track member facility, and that within seven calendar days of ceasing to be a Performance Track member, the owner or operator will revert to~~

~~the non-Performance Track inspection frequency, as provided in subsection (b) (4) of this Section. Inspections pursuant to this subsection (b) (5) must be conducted at least once each month.~~

~~B) Within 60 days, the Agency must notify the owner or operator of the Performance Track member facility, in writing, if the request submitted pursuant to subsection (b) (5) (A) of this Section is approved, denied, or if an extension to the 60 day deadline is needed. This notice must be placed in the facility's operating record. The owner or operator of the Performance Track member facility should consider the application approved if the Agency does not either deny the application or notify the owner or operator of the Performance Track member facility of an extension to the 60 day deadline. In these situations, the owner or operator of the Performance Track member facility must adhere to the revised inspection schedule outlined in its request for a Class 1 permit modification and keep a copy of the application in the facility's operating record.~~

~~C) Any owner or operator of a Performance Track member facility that discontinues its membership or which USEPA terminates from the program must immediately notify the Agency of its change in status. The facility owner or operator must place in its operating record a dated copy of this notification and revert back to the non-Performance Track inspection frequencies within seven calendar days.~~

c) The owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule ~~which~~that ensures that the problem does not lead to an environmental or human health hazard. ~~Where~~When a hazard is imminent or has already occurred, remedial action must be taken immediately.

d) The owner or operator must record inspections in an inspection log or summary. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, these records 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.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section 724.152 Content of Contingency Plan

a) The contingency plan must describe the actions facility personnel must take to comply with Sections 724.151 and 724.156 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) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR ~~112 or 300~~, 112, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Part. The owner or operator may develop one contingency plan that meets all regulatory requirements. USEPA has recommended that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (One Plan). When

modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

BOARD NOTE: The federal One Plan guidance appeared in the Federal Register at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103 (June 19, 1996). USEPA, Office of Resource Conservation and Recovery, Chemical Emergency Preparedness and Prevention Office, has made these documents available on-line for examination and download at www.epa.gov/emergencies (search for "one plan" or "integrated contingency plan" documents).

c) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services pursuant to Section 724.137.

d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see Section 724.155), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. For new facilities, this information must be supplied to the Agency at the time of certification, rather than at the time of permit application.

e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes and alternative evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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 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) The name and telephone number of the reporter;

B) The name and address of the facility;

C) The time and type of incident (e.g., release, fire);

D) 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 35 Ill. Reg. _____, effective _____)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.170 Applicability

The regulations in this Subpart E apply to owners and operators of both on-site and off-site facilities, except as Section 724.101 provides otherwise. Sections 724.171, 724.172, and 724.176 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor do they apply to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 35 Ill. Adm. Code 726.303(a). Section 724.173(b) only applies to permittees that treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

~~BOARD NOTE: This Section corresponds with 40 CFR 264.70(a) (2005), effective September 5, 2006. The Board omitted 40 CFR 264.70(b) (2005), since that provision merely stated the September 5, 2006 effective date for the newer manifest requirements.~~

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.171 Use of Manifest System

a) Receipt of manifested hazardous waste.

1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:

A) It must sign and date, by hand, each copy of the manifest;

B) It must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;

C) It must immediately give the transporter at least one copy of the manifest;

D) It must send a copy of the manifest to the generator within 30 days after delivery; and

E) It must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, ~~OFA/OECA~~ (2254A), U.S. Environmental Protection Agency, ~~Ariel Rios Building~~, 1200 Pennsylvania ~~Avenue~~ Ave., NW, Washington, DC 20460.

b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:

1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

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

BOARD NOTE: 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).

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

c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

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

d) 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~~ a facility must provide a copy of the ~~tracking~~ movement document bearing all required signatures to the ~~notifier~~ exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance, ~~Enforcement Planning, Targeting and Data~~ Assurance Division (~~2222A~~)-(2254A), Environmental Protection Agency, ~~401 M St., SW~~, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other concerned countries. The original copy of the ~~tracking~~ movement document must be maintained at the facility for at least three years from the date of signature.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.172 Manifest Discrepancies

a) "Manifest discrepancies" are defined as any one of the following:

1) Significant differences (as defined by subsection (b) of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).

b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d) Rejection of hazardous waste.

1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f) of this Section.

e) Except as provided in subsection (e)(7) of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (e)(1) through (e)(6) of this Section:

1) ~~Write~~—The facility owner or operator must write the generator's USEPA identification number in Item 1 of the new manifest. ~~Write~~—The facility owner or operator must write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then the facility owner or operator must write the generator's site address in the designated space in Item 5.

2) ~~Write~~—The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) ~~Write~~—The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) ~~Sign~~—The facility owner or operator must sign the Generator's/Offerrer's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6) of this Section.

f) Except as provided in subsection (f)(7) of this Section, for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (f)(1) through (f)(6) and (f)(8) of this Section:

1) ~~Write~~—The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. ~~Write~~ The facility owner or operator must write the ~~generator's~~ facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the ~~generator's~~ facility's site address, then the facility owner or operator must write the ~~generator's~~ facility's site address in the designated space for Item 5 of the new manifest.

2) ~~Write~~—The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) ~~Write~~—The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) ~~Sign~~—The facility owner or operator must sign the Generator's/Offerrer's Certification to certify, as offeror of the shipment, that the waste has been

properly packaged, marked and labeled and is in proper condition for transportation.

7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8) of this Section.

8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in Section 35 Ill. Adm. Code 722.142(a).

g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.241 Definitions of Terms as Used in This Subpart

For the purposes of this Subpart H, the following terms have the given meanings:

a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 724.212.

b) "Current closure cost estimate" means that the most recent of the estimates prepared in accordance with Section 724.242(a), (b), and (c).

c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Section 724.244(a), (b), and (c).

d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 724.217 through 724.220.

f) The following terms are used in the specifications for the financial test for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" 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 that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

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

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

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

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

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

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

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

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

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

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

BOARD NOTE: Derived from 40 CFR 264.141 (~~2002~~-(2010)).

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

BOARD NOTE: This term is used in the definition of "pollution incident."

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

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

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

BOARD NOTE: This definition is used in the definition of "pollution incident."

"Pollution incident" means emission, discharge, release, or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release, or escape results in "environmental damage." The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident." "Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence."

BOARD NOTE: This definition is used in the definition of "property damage."

"Property damage" means as follows:

Either of the following:

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

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

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

BOARD NOTE: Derived from 40 CFR 264.141 (2002) ~~(2010)~~.

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

h) "Substantial business relationship" means ~~that one business entity has an ownership interest in another.~~ the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. "Applicable state law," as used in this subsection (h), means the laws of the State of

Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Derived from 40 CFR 264.141(h) (2010) and the discussion at 53 Fed. Reg. 33938, ~~41-4333941-33943~~ (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 725.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to ~~section~~Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.242 Cost Estimate for Closure

a) The owner or operator must have detailed a written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 724.211 through 724.215 and applicable closure requirements in Sections 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701 through 724.703, and 724.1102.

1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 724.212(b)) ~~and~~.

2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in Section 724.241(d)). The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.

3) The closure cost estimate must not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes if ~~applicable under~~ permitted by the Agency pursuant to Section 724.213(d), facility structures or equipment, land or other assets associated with the facility at the time of partial or final closure, hazardous wastes that might have economic value.

4) The owner or operator must not incorporate a zero cost for hazardous wastes, or non-hazardous wastes if ~~applicable under~~ permitted by the Agency pursuant to Section 724.213(d), that might have economic value.

b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with Section 724.243. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Agency as specified in Section 724.243(f)(3). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product (Deflator) as published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (b)(1) and (b)(2) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account Tables, published by U.S. Department of Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address:

www.bea.gov/national/nipaweb/?TableView.asp??SelectedTable=13?&FirstYear=2002?&LastYear=2004?&Freq=Qtr.

c) During the active life of the facility the 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 Section 724.242(b).

d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with Sections 724.242(a) and (c) and, when this estimate has been adjusted in accordance with Section 724.242(b), the latest adjusted closure cost estimate.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.243 Financial Assurance for Closure

An owner or operator of each facility must establish financial assurance for closure of the facility. The owner or operator must choose from the options that are specified in subsections (a) through (f) of this Section.

a) Closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection (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 treatment, storage or 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 must be accompanied by a formal certification of acknowledgment, ~~as specified in Section 724.251).~~ 724.251. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the 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 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 treatment, storage, or 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 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:

Next Payment =

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 725.243(a) and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current 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:

Next Payment =

Where:

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

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

5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section or in 35 Ill. Adm. Code 725.243, 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 725.243, as applicable.

6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate or obtain other financial assurance as specified in this Section to cover the difference.

7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.

8) If an owner or operator substitutes other financial assurance, as specified in this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (i) of this Section, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

11) The Agency must agree to termination of the trust when either of the following occurs:

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

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

b) Surety bond guaranteeing payment into a closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. 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 treatment, storage or 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 the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

2) The wording of the surety bond must be 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 (see 35 Ill. Adm. Code 724.251) to show current closure cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment as required by the trust agreement.

4) The 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 final closure is issued by the Board or a U.S. district court or other court of competent jurisdiction; or

C) Provide alternate financial assurance as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (g) of this Section.

7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

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

c) Surety bond guaranteeing performance of closure.

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

2) The wording of the surety bond must be 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 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 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 the following:

A) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; 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 final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure, as guaranteed by the bond, 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 closure cost estimate.

7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance as specified in this Section. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

9) The owner or operator may cancel the bond if the Agency has given prior written consent. 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.

10) The surety must not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i) of this Section.

d) 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 treatment, storage, or 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 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 closure of the facility by the letter of credit.

5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in subsection (g) of this Section.

7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate

decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the Agency may draw on the letter of credit.

9) 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 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.

10) 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) Closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection (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 treatment, storage, or 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 closure insurance policy must be issued for a face amount at least equal to the current 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 closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties, as the Agency specifies.

5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Agency must instruct the insurer to make reimbursement in such amounts, as the Agency specifies in writing, if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, it must withhold reimbursement of such amounts that it deems prudent, until it determines, in accordance with subsection (i) of this Section, that the owner or operator is no longer required to maintain financial assurance for closure of the facility. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (e)(10) 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. 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 closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

10) The Agency must give written consent to the owner or operator that it 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 closure.

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 located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

B) The owner or operator must have the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure 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 1-4 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 1-4 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) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

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

4) 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 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) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (f)(1) of this Section, 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) 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.

10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (f)(1) through (f)(8) of this Section, must comply with the terms of the corporate guarantee, and the wording of the corporate guarantee must be that specified in Section 724.251. The 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) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other 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) 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) 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 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 closure 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 closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. The amount of funds available to the Agency must be sufficient to close all of the owner or operator's facilities. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Agency may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

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 a qualified Professional Engineer that final approved closure has been accomplished in accordance with the closure plan, the Agency must notify the owner or operator in writing that it is no longer required by this Section to maintain financial assurance for closure of the facility, unless the Agency determines that closure has not been in accordance with the approved closure plan. The Agency must provide the owner or operator a detailed written statement of any such determination that closure has not been in accordance with the approved closure plan.

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 35 Ill. Reg. _____, effective _____)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 724.274 Inspections

At least weekly, the owner or operator must inspect areas where containers are stored, ~~except for the owner or operator of a Performance Track member facility, which may conduct inspections at least once each month, after approval by the Agency. To apply for reduced inspection frequencies, the owner or operator of the Performance Track member facility must follow the procedures identified in Section 724.115(b)(5).~~ The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

BOARD NOTE: See Sections 724.115(c) and 724.271 for remedial action required if deterioration or leaks are detected.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART J: TANK SYSTEMS

Section 724.295 Inspections

a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.

BOARD NOTE: Section 724.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 724.296 requires the owner or operator to notify the Agency within 24 hours of confirming a leak. Also federal 40 CFR 302.6 may require the owner or operator to notify the National Response Center of a release.

c) In addition, except as noted under subsection (d) of this Section, the owner or operator must inspect the following at least once each operating day:

1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in subsections (c)(1) and (c)(2) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

e) ~~Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in Section 724.115(b)(5).~~ This subsection (e) corresponds with 40 CFR 264.195(e), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14,

2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, ~~92,12992~~, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

f) Ancillary equipment that is not provided with secondary containment, as described in Section 724.293(f)(1) through (f)(4), must be inspected at least once each operating day.

g) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

2) All sources of impressed current must be inspected or tested, as appropriate, at least bimonthly (i.e., every other month).

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

h) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (a) through (c) of this Section.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART N: LANDFILLS

Section 724.414 Special Requirements for Bulk and Containerized Liquids

a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

b) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

c) Containers holding free liquids must not be placed in a landfill unless the following is true:

1) All free-standing liquid fulfills one of the following:

A) It has been removed by decanting or other methods;

B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

- C) It has been otherwise eliminated; or
- 2) The container is very small, such as an ampule; or
- 3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
- 4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.

d) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are the following: materials listed or described in subsection ~~(e)(1)~~(d)(1) of this Section; materials that pass one of the tests in subsection (e)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of 35 Ill. Adm. Code 104.

1) Nonbiodegradable sorbents are the following:

A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates (clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, etc.), calcium carbonate (organic free limestone), oxides/hydroxides (alumina, lime, silica (sand), diatomaceous earth, etc.), perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal (activated carbon), etc.); or

B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstrene and tertiary butyl copolymers, etc.). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

C) Mixtures of these nonbiodegradable materials.

2) Tests for nonbiodegradable sorbents are the following:

A) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) (Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi), incorporated by reference in 35 Ill. Adm. Code 720.111(a);

B) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) (Standard Practice for Determining Resistance of Plastics to Bacteria), incorporated by reference in 35 Ill. Adm. Code 720.111(a); or

C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method 301B (CO2 Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

e) The placement of any liquid that is not a hazardous waste in a hazardous waste landfill is prohibited (35 Ill. Adm. Code 729.311), unless the Board finds that the owner or operator has demonstrated the following in a petition for an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104:

1) The only reasonably available alternative to the placement in a hazardous waste landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, that contains or which may reasonably be anticipated to contain hazardous waste; and

2) Placement in the hazardous waste landfill will not present a risk of contamination of any "underground source of drinking water" (as that term is defined in 35 Ill. Adm. Code 702.110).

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 724.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

a) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. The inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the USDOT hazardous materials regulations (49 CFR 173 (Shippers - General Requirements for Shipments and Packages), 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations specify a particular inside container for the waste.

b) The inside containers must be overpacked in an open head USDOT-specification metal shipping container (49 CFR 178 (Specifications for Packagings) and 179 (Specifications for Tank Cars)) of no more than 416 liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with Section ~~724.414(e)~~ 724.414(d), to completely sorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and sorbent material.

c) In accordance with Section 724.117(b), the sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with Section 724.117(b).

d) Incompatible waste, as defined in 35 Ill. Adm. Code 720.110, must not be placed in the same outside container.

e) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in 35 Ill. Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to packaging in accordance with subsections (a) through (d) of this Section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (a) through (d) of this Section without first being treated or rendered non-reactive.

f) Such disposal is in compliance with 35 Ill. Adm. Code 728. Persons who incinerate lab packs according to 35 Ill. Adm. Code 728.142(c)(1) may use fiber drums in place of metal outer containers. Such fiber drums must meet the USDOT specifications in 49 CFR 173.12 (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and be overpacked according to the requirements of subsection (b) of this Section.

g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid wastes or wastes containing free liquids allowed under this Section is restricted to labwaste and non-periodic waste, as those terms are defined in that Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section 724.652 Corrective Action Management Units

a) To implement remedies 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 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~~)~~-724.414~~(c) 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~~)~~-724.414~~(e).

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(~~e~~)~~-724.414~~(b). Sorbents used to treat free liquids in a CAMU must meet the requirements of Section 724.414(~~e~~)~~-724.414~~(d).

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 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 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 1×10^{-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 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 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 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 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) It must minimize the need for further maintenance; and

ii) It must 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 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) Hydrogeological 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~~—The final cover must provide long-term minimization of migration of liquids through the closed unit;

ii) ~~Function~~—The final cover must function with minimum maintenance;

iii) ~~Promote~~—The final cover must promote drainage and minimize erosion or abrasion of the cover;

iv) ~~Accommodate~~—The final cover must accommodate settling and subsidence so that the cover's integrity is maintained; and

v) ~~Have~~—The final cover must 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 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 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 35 Ill. Reg. _____, effective _____)

SUBPART DD: CONTAINMENT BUILDINGS

Section 724.1101 Design and Operating Standards

a) All containment buildings must comply with the following design and operating standards:

1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g., precipitation, wind, runoff) and to assure containment of managed wastes.

2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b) of this Section, must be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls. The unit must be designed so that it has sufficient structural strength to prevent collapse or other failure. All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes. The containment building must meet the structural integrity requirements established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM). If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural

strength requirement may be made for light-weight doors and windows that meet the following criteria:

A) They provide an effective barrier against fugitive dust emissions under subsection (c)(1)(C) 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.

3) Incompatible hazardous wastes or treatment reagents must not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail.

4) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination, or other appropriate means), the owner or operator must include the following:

1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).

2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building, as follows:

A) The primary barrier must be sloped to drain liquids to the associated collection system; and

B) Liquids and waste must be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.

3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:

i) It is constructed with a bottom slope of 1 percent or more; and

ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-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} m²/sec or more.

B) If treatment is to be conducted in the building, an area in which such treatment will be conducted must be designed to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building.

C) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of Section 724.193(e)(1). In addition, the containment building must meet the requirements of Section 724.193(b) and Sections 724.193(c)(1) and (c)(2) to be an acceptable secondary containment system for a tank.)

4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must have done the following:

A) Provided written notice to USEPA of their request by November 16, 1992. This notification must have described the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;

B) Responded to any comments from USEPA on these plans within 30 days; and

C) Fulfilled the terms of the revised plans, if such plans are approved by USEPA.

c) An owner or operator of a containment building must do the following:

1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum:

A) Maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;

B) Maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

C) Take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and

D) Take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods)), incorporated by reference in 35 Ill. Adm. Code 720.111(b). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator, etc.) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv) (2005), USEPA cites "40 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (Aug. 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. While 40 CFR 60.292 of the federal regulations pertains to control of fugitive dust emissions, that provision is limited in its application to glass melting furnaces. The Board has chosen to use the general citation: "40 CFR 60."

2) It must obtain and keep on site a certification by a qualified Professional Engineer that the containment building design meets the requirements of subsections (a) through (c) of this Section.

3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures:

A) Upon detection of a condition that has led to a release of hazardous wastes (e.g., upon detection of leakage from the primary barrier) the owner or operator must do the following:

i) Enter a record of the discovery in the facility operating record;

ii) Immediately remove the portion of the containment building affected by the condition from service;

iii) Determine what steps must be taken to repair the containment building, remove any leakage from the secondary collection system, and establish a schedule for accomplishing the cleanup and repairs; and

iv) Within seven days after the discovery of the condition, notify the Agency in writing of the condition, and within 14 working days, provide a written notice to the Agency with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.

B) The Agency must review the information submitted, make a determination in accordance with Section 34 of the Act, regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing.

C) Upon completing all repairs and cleanup the owner and operator must notify the Agency in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with subsection (c)(3)(A)(iv) of this Section.

4) It must inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring and leak detection equipment, as well as the containment building and the area immediately surrounding the containment building, to detect signs of releases of hazardous waste, ~~except that the owner or operator of a Performance Track member facility must inspect the record at least once each month after approval by the Agency. To apply for a reduced monitoring frequency, the owner or operator of a Performance Track member facility must follow the procedures described in Section 724.115(b)(5).~~

d) For a containment building that contains both areas with and without secondary containment, the owner or operator must do the following:

- 1) Design and operate each area in accordance with the requirements enumerated in subsections (a) through (c) of this Section;
- 2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment; and
- 3) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

JCAR350724-1109561r01

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~~NOTICE OF PROPOSED AMENDMENTS~~

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