



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

December 17, 2013

POLLUTION CONTROL BOARD
JOHN THERRIAULT ASSISTANT CLERK
100 W RANDOLPH ST, STE 11-500
CHICAGO, IL 60601

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 37, Issue 51 of the Illinois Register, dated 12/20/2013.

PROPOSED RULES

Hazardous Waste Management System: General 35 Ill. Adm. Code 720 Point of Contact: John T Therriault	20003
Standards for Owners and Operators of Hazardous Waste Facilities Operating Under RCRA Standerized Permit 35 Ill. Adm. Code 727 Point of Contact: John T Therriault	20035
Solid Waste Disposal: General Provisions 35 Ill. Adm. Code 810 Point of Contact: John T Therriault	20067
Standards for New Solid Waste Landfills 35 Ill. Adm. Code 811 Point of Contact: John T Therriault	20073
Standards for Existing Landfills and Units 35 Ill. Adm. Code 814 Point of Contact: John T Therriault	20108

REGULATORY AGENDA

Permits and General Provisions 35 Ill. Adm. Code 201 Point of Contact: John Therriault	20463
--	-------

COPY

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code citation: 35 Ill. Adm. Code 720
- 3)

<u>Section numbers:</u> 720.111	<u>Proposed action:</u> Amend
------------------------------------	----------------------------------
- 4) Statutory authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) A Complete description of the subjects and issues involved: The following briefly describes the subjects and issues involved in the docket consolidated R14-1/R14-2/R14-3 rulemaking of which the amendment to Part 720 is a single segment. Also affected are 35 Ill. Adm. Code 727, 810, 811, and 814, which is covered by a separate notice in this issue of the Illinois Register. A comprehensive description is contained in the Board's opinion and order of December 5, 2013, proposing amendments in docket consolidated R14-1/R14-2/R14-3, which opinion and order is available from the address below.

The Board reserved Docket R14-1 to update the Illinois underground injection control (UIC) rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the update period January 1, 2013 through June 30, 2013. Similarly, the Board reserved docket R14-2 to update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) during that period. Finally, the Board reserved Docket R14-3 to update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the period.

USEPA did not amend any of the pertinent regulations during the period. During the period January 1, 2013 through June 30, 2013, however, updates became available to the versions of several provisions of the *Code of Federal Regulations* and the *United States Code* that are incorporated by reference in the Illinois UIC, MSWLF, and hazardous waste rules.

Rather than dismiss the dockets for a lack of USEPA action in the three program areas that would require Board action, the Board is using this opportunity to update the incorporations by reference. The Board is further using this opportunity to make a series of corrections and minor revisions relating to the incorporations by reference and reliance on them in substantive provisions. Finally, the Board is making a series of non-substantive revisions and corrections to the text of the open provisions that are not related to the incorporations by reference.

RECEIVED

DEC 09 2013

SOS-CODE DIV.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Specifically, the amendments to Part 720 update incorporations by reference to the *Code of Federal Regulations* and the *United States Code*.

Sections 13(c) and 22.4 of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4 (2012)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35 (2012)] 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 proposed amendment replace emergency amendments currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does this proposed amendment contain incorporations by reference? Yes.
- 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) (2012)].
- 11) Are there any other amendments pending on this Part? No.
- 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 consolidated R14-1/R14-2/R14-3 and be addressed to:

John T. Therriault, 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 consolidated R14-1/R14-2/R14-3:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

Phone: 312-814-6924
E-mail: michael.mccambridge@illinois.gov

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

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that own or operate an underground injection well or which generate, transport, treat, store, or dispose of hazardous waste. 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) (2012)].
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed 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) (2012)].
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory agenda on which this rulemaking was summarized: 37 Ill. Reg. 9060, 9109-14, 9121-23, June 28, 2013.

The full text of the proposed amendment begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

- 720.101 Purpose, Scope, and Applicability
- 720.102 Availability of Information; Confidentiality of Information
- 720.103 Use of Number and Gender
- 720.104 Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section

- 720.110 Definitions
- 720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

- 720.120 Rulemaking
 - 720.121 Alternative Equivalent Testing Methods
 - 720.122 Waste Delisting
 - 720.123 Petitions for Regulation as Universal Waste
 - 720.130 Procedures for Solid Waste Determinations and Non-Waste Determinations
 - 720.131 Solid Waste Determinations
 - 720.132 Boiler Determinations
 - 720.133 Procedures for Determinations
 - 720.134 Non-Waste Determinations
 - 720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
 - 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
 - 720.142 Notification Requirement for Hazardous Secondary Materials
 - 720.143 Legitimate Recycling of Hazardous Secondary Materials
- 720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013;

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/
R14-3 at 38 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.111 References

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

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

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

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

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

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

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

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

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

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

“Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” API Recommended Practice 1632, Second

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

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

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004)

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

(document number 955-001-00000-1). See below in this subsection (a) under NTIS.

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

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

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

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

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

“APTI Course 415: Control of Gaseous Emissions,” December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: “APTI” denotes USEPA’s “Air Pollution Training Institute” (Internet address: www.epa.gov/air/oaqps/eog/).

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address:

www.epa.gov/scram001/guidance/guide/scrng.wpd.

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

"Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156" (also called "Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

“Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure” (individually referred to as “Annex C to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II (“Categories of Wastes Requiring Special Consideration”) and VIII (“List A”) to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

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

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

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

USDOD. Available from the United States Department of Defense:

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

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

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

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

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

BOARD NOTE: DOD 6055.09-STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

USGSA. Available from the United States Government Services Administration:

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

40 CFR 3.3-~~(2012)~~ (2013) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10-~~(2012)~~ (2013) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000-~~(2012)~~ (2013) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii)-~~(2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51-~~(2012)~~ (2013) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

Appendix B to 40 CFR 52.741-~~(2012)~~ (2013) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60-~~(2012)~~, as amended at ~~77 Fed. Reg. 44488 (July 30, 2012); 77 Fed. Reg. 48433 (Aug. 14, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 56421 (Sept. 12, 2012)~~ (2013) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60-~~(2012)~~ (2013) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60-~~(2012)~~ (2013) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

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

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

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

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

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

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

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

40 CFR 61-~~(2012)~~ (2013) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61-~~(2012)~~ (2013) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61-~~(2012)~~ (2013) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63-~~(2012)~~, as amended at 77 Fed. Reg. 41075 (July 12, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 55698 (Sept. 11, 2012); 77 Fed. Reg. 58219 (Sept. 19, 2012); 77 Fed. Reg. 65135 (Oct. 25, 2012); 77 Fed. Reg. 75739 (Dec. 21, 2012) (2013) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Subpart RR of 40 CFR 63-~~(2012)~~ (2013) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.984, 724.985, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63-~~(2012)~~ (2013) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63-~~(2012)~~ (2013) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63-~~(2012)~~ (2013) (Determination of the Fraction Biodegraded (Fbio) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63-~~(2012)~~ (2013) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures)-~~(2012)~~ (2013), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

40 CFR 232.2-~~(2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257-~~(2012)~~ (2013) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2013) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258-~~(2012)~~ (2013) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b)-~~(2012)~~ (2013) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261-~~(2012)~~ (2013) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53-~~(2012)~~ (2013) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54-~~(2012)~~ (2013) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55-~~(2012)~~ (2013) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56-~~(2012)~~ (2013) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57-~~(2012)~~ (2013) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262-~~(2012)~~ (2013) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264-~~(2012)~~ (2013) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264-~~(2012)~~ (2013) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264-~~(2012)~~ (2013) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264-~~(2012)~~ (2013) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265-~~(2012)~~ (2013) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265-~~(2012)~~ (2013) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265-~~(2012)~~ (2013) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265-~~(2012)~~ (2013) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266-~~(2012)~~ (2013) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

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

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

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

40 CFR 267.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5-~~(2012)~~ (2013) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60-~~(2012)~~ (2013) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Subpart B of 49 CFR 107-~~(2012)~~ (2013) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3-~~(2012)~~ (2013) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8-~~(2012)~~ (2013) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15-~~(2012)~~ (2013) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16-~~(2012)~~ (2013) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304-~~(2012)~~ (2013) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2-~~(2012)~~ (2013) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

49 CFR 173.12 ~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 ~~(2012)~~ (2013) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 ~~(2012)~~ (2013) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 ~~(2012)~~ (2013) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 ~~(2012)~~ (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 ~~(2012)~~ (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 ~~(2012)~~ (2013) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 ~~(2012)~~ (2013) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ~~(2012)~~ (2013) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 178 ~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

49 CFR 180-~~(2012)~~ (2013) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

c) Federal Statutes:

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

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j))-~~(2011)~~ (2012), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

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

d) This Section incorporates no later editions or amendments.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

COPY

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit
- 2) Code citation: 35 Ill. Adm. Code 727
- 3) Section numbers: 727.240 Proposed action: Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) A Complete description of the subjects and issues involved: The amendment to Part 727 is a single segment of the docket consolidated R14-1/R14-2/R14-3 rulemaking that also affects 35 Ill. Adm. Code 720, 810, 811, and 814, 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 consolidated R14-1/R14-2/R14-3 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 5, 2013, proposing amendments in docket consolidated R14-1/R14-2/R14-3, which opinion and order is available from the address below.

Specifically, the amendment to Part 727 makes a correction requested by JCAR.

Tables appear in the Board's opinion and order of December 5, 2013 in docket consolidated R14-1/R14-2/R14-3 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 December 5, 2013 opinion and order in docket consolidated R14-1/R14-2/R14-3.

Sections 13(c) and 22.4 of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4 (2012)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35 (2012)] 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 proposed amendment replace emergency amendments currently in effect? No.

RECEIVED

DEC 09 2013

SOS-CODE DIV.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does this proposed amendment contain incorporations by reference? 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) (2012)].
- 11) Are there any other amendments pending on this Part? No.
- 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 consolidated R14-1/R14-2/R14-3 and be addressed to:

John T. Therriault, 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 consolidated R14-1/R14-2/R14-3:

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

Phone: 312-814-6924
E-mail: michael.mccambridge@illinois.gov

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

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that own or operate an underground injection well or which generate, transport, treat, store, or dispose of hazardous

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

waste. 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) (2012)].

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed 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) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory agenda on which this rulemaking was summarized: 37 Ill. Reg. 9060, 9109-14, 9121-23, June 28, 2013.

The full text of the proposed amendment begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 727

STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
FACILITIES OPERATING UNDER A RCRA STANDARDIZED PERMIT

Section

727.100	General
727.110	General Facility Standards
727.130	Preparedness and Prevention
727.150	Contingency Plan and Emergency Procedures
727.170	Recordkeeping, Reporting, and Notifying
727.190	Releases from Solid Waste Management Units
727.210	Closure
727.240	Financial Requirements
727.270	Use and Management of Containers
727.290	Tank Systems
727.900	Containment Buildings

727.APPENDIX A Financial Assurance Forms

727.ILLUSTRATION A Letter of Chief Financial Officer: Financial Assurance for
Facility Closure

727.ILLUSTRATION B Letter of Chief Financial Officer: Financial Assurance for
Liability Coverage

727.APPENDIX B Correlation of State and Federal Provisions

727.TABLE A Correlation of Federal RCRA Standardized Permit Provisions to State
Provisions

727.TABLE B Correlation of State RCRA Standardized Permit Provisions to Federal
Provisions

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

SOURCE: Adopted in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1146, effective December 20,
2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12829, effective July 14, 2008; amended in R13-
15 at 37 Ill. Reg. 17909, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill.
Reg. _____, effective _____.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 727.240 Financial Requirements

- a) Applicability and substance of the financial requirements.
 - 1) The regulations in this Section apply to owners and operators who treat or store hazardous waste under a RCRA standardized permit, except as provided in Section 727.100(a)(2) or subsection (a)(4) of this Section.
 - 2) The facility owner or operator must do each of the following:
 - A) It must prepare a closure cost estimate as required in subsection (c) of this Section;
 - B) It must demonstrate financial assurance for closure as required in subsection (d) of this Section; and
 - C) It must demonstrate financial assurance for liability as required in subsection (h) of this Section.
 - 3) The owner or operator must notify the Agency if the owner or operator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy) of the United States Code (see also subsection (i) of this Section).
 - 4) States and the federal government are exempt from the requirements of this Section.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 267.140 (~~2012~~) (2013).

- b) Definitions of terms as used in this Section.
 - 1) “Closure plan” means the plan for closure prepared in accordance with the requirements of Section 727.210(c).
 - 2) “Current closure cost estimate” means the most recent of the estimates prepared in accordance with subsections (c)(1), (c)(2), and (c)(3) of this Section.
 - 3) This subsection (b)(3) corresponds with 40 CFR 267.141(c), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 4) “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator. In this instance, the owned corporation that is the facility owner or operator is deemed a “subsidiary” of the parent corporation.
- 5) This subsection (b)(5) corresponds with 40 CFR 267.141(e), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.
- 6) The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:
 - “Assets” means all existing and all probable future economic benefits obtained or controlled by a particular entity.
 - “Current plugging and abandonment cost estimate” means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).
 - “Independently audited” refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.
 - “Liabilities” means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
 - “Tangible net worth” means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.
- 7) In the liability insurance requirements, the terms “bodily injury” and “property damage” have the meanings given them by applicable State law. However, these terms do not include those liabilities that, consistent with standard industry practices, are excluded from coverage in liability insurance policies for bodily injury and property damage. The Agency intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

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

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

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

- 8) “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the facility 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 (d)(8), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 267.141 (~~2012~~) (2013). Subsection (b)(8) is also derived from the discussion at 53 Fed. Reg. 33938, 41-43 (Sept. 1, 1988). The term “substantial business relationship” is also independently defined in 35 Ill. Adm. Code 724.241(h) and 725.241(h). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to section 40 of the Act [415 ILCS 5/40].

- c) Cost estimate for closure.
- 1) The facility owner or operator must have at the facility a detailed written estimate, in current dollars, of the cost of closing the facility in accordance

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

with the requirements in Section 727.210(b) through (f) and applicable closure requirements in Sections 727.270(g), 727.290(l), and 727.900(i).

- A) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan (see Section 727.210(c)(2)).
 - B) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See the definition of parent corporation in subsection (b)(4) of this Section.) The owner or operator may use costs for on-site disposal if it can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.
 - C) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.
 - D) The facility owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.
- 2) During the active life of the facility, the facility owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with subsection (d) of this Section. For an owner or operator using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the guarantor's fiscal year and before submission of updated information to the Agency as specified in subsection (n)(3) of this Section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product (Deflator) published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (c)(2)(A) and (c)(2)(B) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account Tables, published by U.S. Department of Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address: www.bea.gov/iTable/iTable.cfm?ReqID=9&step=1#reqid=9&step=3&isuri=1&903=13.

- 3) During the active life of the facility, the facility owner or operator must revise the closure cost estimate no later than 30 days after the Agency has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (c)(2) of this Section.
- 4) The facility owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with subsections (c)(1) and (c)(3) of this Section and, when this estimate has been adjusted in accordance with subsection (c)(2) of this Section, the latest adjusted closure cost estimate.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 267.142 ~~(2012)~~ (2013).

- d) Financial assurance for closure. The facility owner or operator must establish financial assurance for closure of each storage or treatment unit that it owns or operates. In establishing financial assurance for closure, the owner or operator must choose from among the financial assurance mechanisms in subsections (d)(1) through (d)(7) of this Section. The owner or operator can also use a combination of mechanisms for a single facility if the combination meets the requirement in subsection (d)(8) of this Section, or it may use a single mechanism for multiple facilities as in subsection (d)(9) of this Section. The Agency must release the owner or operator from the requirements of this subsection (d) after the owner or operator meets the criteria pursuant to subsection (d)(10) of this Section.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Closure trust fund. An owner or operator may use the "closure trust fund" that is specified in 35 Ill. Adm. Code 724.243(a)(1), (a)(2), and (a)(6) through (a)(11). For purposes of this subsection (d)(1), the following provisions also apply:

A) Payments into the trust fund for a new facility must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over three years, whichever period is shorter. This period of time is hereafter referred to as the "pay-in period."

B) For a new facility, the facility owner or operator must make the first payment into the closure trust fund before the facility may accept the initial storage. A receipt from the trustee must be submitted by the owner or operator to the Agency before this initial storage of waste. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in subsection (d)(8) of this Section for multiple mechanisms. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The owner or operator determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is as follows:

$$NP = \frac{(CCE - CVTF)}{YRPP}$$

Where:

NP = the amount of the next payment

CCE = the current closure cost estimate

CVTF = the current value of the trust fund

YRPP = the years remaining in the pay-in period.

C) The owner or operator of a facility existing on the effective date of this subsection (d)(1) can establish a trust fund to meet the financial assurance requirements of this subsection (d)(1). If the

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

value of the trust fund is less than the current closure cost estimate when a final approval of the permit is granted for the facility, the owner or operator must pay the difference into the trust fund within 60 days.

- D) The facility owner or operator may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsections (d)(1)(B) or (d)(1)(C) of this Section.
 - E) The facility owner or operator must submit a trust agreement with the wording specified designated by the Agency pursuant to subsection (1)(3) of this Section.
- 2) Surety bond guaranteeing payment into a closure trust fund. An owner or operator may use the “surety bond guaranteeing payment into a closure trust fund,” as specified in 35 Ill. Adm. Code 724.243(b), including the use of the surety bond instrument designated by the Agency pursuant to subsection (1)(3) of this Section, and the standby trust specified at 35 Ill. Adm. Code 724.243(b)(3).
 - 3) Surety bond guaranteeing performance of closure. An owner or operator may use the “surety bond guaranteeing performance of closure,” as specified in 35 Ill. Adm. Code 724.243(c), the submission and use of the surety bond instrument designated by the Agency pursuant to subsection (1)(3) of this Section, and the standby trust specified at 35 Ill. Adm. Code 724.243(c)(3).
 - 4) Closure letter of credit. An owner or operator may use the “closure letter of credit” specified in 35 Ill. Adm. Code 724.243(d), the submission and use of the irrevocable letter of credit instrument designated by the Agency pursuant to subsection (1)(3) of this Section, and the standby trust specified in 35 Ill. Adm. Code 724.243(d)(3).
 - 5) Closure insurance. An owner or operator may use “closure insurance,” as specified in 35 Ill. Adm. Code 724.243(e), utilizing the certificate of insurance for closure designated by the Agency pursuant to subsection (1)(3) of this Section.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 6) Corporate financial test. An owner or operator that satisfies the requirements of this subsection (d)(6) may demonstrate financial assurance up to the amount specified in this subsection (d)(6).

- A) Financial component. See subsection (m) of this Section.

BOARD NOTE: It was necessary for the Board to codify corresponding 40 CFR 267.143(f)(1) as subsection (m) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(A) also include added subsection (m) of this Section, as applicable.

- B) Recordkeeping and reporting requirements. See subsection (n) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2) as subsection (n) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(6), or (d)(6)(B) also include added subsection (n) of this Section, as applicable.

- 7) Corporate guarantee.

- A) A facility owner or operator may meet the requirements of this subsection (d) by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsection (d)(6) of this Section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording designated by the Agency pursuant to subsection (l)(3) of this Section. The certified copy of the guarantee must accompany the letter from the guarantor's chief financial officer and accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

letter must describe this “substantial business relationship” and the value received in consideration of the guarantee.

- B) For a new facility, the guarantee must be effective and the guarantor must submit the items in subsection (d)(7)(A) of this Section and the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before the owner or operator places waste in the facility.
- C) The terms of the guarantee must provide as required by subsection (o) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(g)(3) as subsection (o) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (d), (d)(7), or (d)(7)(C) also include added subsection (o) of this Section, as applicable.

- D) If a corporate guarantor no longer meets the requirements of subsection (d)(6)(A) of this Section, the owner or operator must, within 90 days, obtain alternative assurance, and submit the assurance to the Agency for approval. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days, and submit it to the Agency for approval.
- E) The guarantor is no longer required to meet the requirements of this subsection (d)(7) when either of the following occurs:
 - i) The facility owner or operator substitutes alternate financial assurance as specified in this subsection (d); or
 - ii) The facility owner or operator is released from the requirements of this subsection (d) in accordance with subsection (d)(10) of this Section.
- 8) Use of multiple financial mechanisms. An owner or operator may use more than one mechanism at a particular facility to satisfy the requirements of this subsection (d). The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

operators cannot combine the financial test with the guarantee. The mechanisms must be as specified in subsections (d)(1), (d)(2), (d)(4), (d)(5), (d)(6), and (d)(7) of this Section, respectively, except it is the combination of mechanisms rather than a single mechanism that must provide assurance for an amount at least equal to the cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, it may use the trust fund as the standby trust for the other mechanisms. A single trust fund can be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

- 9) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial mechanism for multiple facilities, as specified in 35 Ill. Adm. Code 724.243(h).
- 10) Release of the owner or operator from the requirements of this subsection (d). Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency will notify the owner or operator in writing that the owner or operator is no longer required by this subsection (d) to maintain financial assurance for final closure of the facility, unless the Agency has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Agency must provide the owner or operator with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 267.143 ~~(2012)~~ (2013).

- e) This subsection (e) corresponds with 40 CFR 267.144, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- f) This subsection (f) corresponds with 40 CFR 267.145, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- g) This subsection (g) corresponds with 40 CFR 267.146, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- h) Liability requirements.
 - 1) Coverage for sudden accidental occurrences. The owner or operator of a hazardous waste treatment or storage facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsection (h)(1)(A) through (h)(1)(G) of this Section:
 - A) Trust fund for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a trust fund for liability coverage as specified in 35 Ill. Adm. Code 724.247(j).
 - B) Surety bond for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a surety bond for liability coverage as specified in 35 Ill. Adm. Code 724.247(i).
 - C) Letter of credit for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a letter of credit for liability coverage as specified in 35 Ill. Adm. Code 724.247(h).
 - D) Insurance for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining liability insurance as specified in 35 Ill. Adm. Code 724.247(a)(1).
 - E) Financial test for liability coverage. The owner or operator may meet the requirements of this subsection (h) by passing a financial test as specified in subsection (h)(6) of this Section.
 - F) Guarantee for liability coverage. The owner or operator may meet the requirements of this subsection (h) by obtaining a guarantee as specified in subsection (h)(7) of this Section.
 - G) Combination of mechanisms. The owner or operator may demonstrate the required liability coverage through the use of

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

combinations of mechanisms as allowed by 35 Ill. Adm. Code 724.247(a)(6).

- H) An owner or operator ~~shall~~must notify the Agency in writing within 30 days whenever either of the following occurs:
- i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in subsections (h)(1)(A) through (h)(1)(G) of this Section; or
 - ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section; or
 - iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage pursuant to subsections (h)(1)(A) through (h)(1)(G) of this Section.
- 2) This subsection (h)(2) corresponds with 40 CFR 267.147(b), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
 - 3) This subsection (h)(3) corresponds with 40 CFR 267.147(c), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
 - 4) This subsection (h)(4) corresponds with 40 CFR 267.147(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
 - 5) Period of coverage. Within 60 days after receiving certifications from the facility owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

approved closure plan, the Agency must notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage from that facility, unless the Agency has reason to believe that closure has not been in accordance with the approved closure plan.

- 6) Financial test for liability coverage. A facility owner or operator that satisfies the requirements of this subsection (h)(6) may demonstrate financial assurance for liability up to the amount specified in this subsection (h)(6):
 - A) Financial component.
 - i) If using the financial test for only liability coverage, the owner or operator must have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus \$10 million.
 - ii) The owner or operator must have assets located in the United States amounting to at least the amount of liability covered by this financial test.
 - iii) An owner or operator who is demonstrating coverage for liability and any other environmental obligations, including closure pursuant to subsection (d)(6) of this Section, through a financial test must meet the requirements of subsection (d)(6) of this Section.
 - B) Recordkeeping and reporting requirements. See subsection (p) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(f)(2) as subsection (p) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(6), or (h)(6)(B) also include added subsection (p) of this Section, as applicable.

- 7) Guarantee for liability coverage.
 - A) Subject to subsection (h)(7)(B) of this Section, a facility owner or operator may meet the requirements of this subsection (h) by obtaining a written guarantee, hereinafter referred to as

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

“guarantee.” The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a “substantial business relationship” with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (h)(6)(A) and (h)(6)(B) of this Section. The wording of the guarantee must be identical to the wording designated by the Agency pursuant to subsection (1)(3) of this Section. A certified copy of the guarantee must accompany the items sent to the Agency, as specified in subsection (h)(6)(B) of this Section. One of these items must be the letter from the guarantor’s chief financial officer. If the guarantor’s parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a “substantial business relationship” with the owner or operator, this letter must describe this “substantial business relationship” and the value received in consideration of the guarantee.

- i) If the facility owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden accidental occurrences arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.
- ii) This subsection (h)(7)(A)(ii) corresponds with 40 CFR 267.147(g)(1)(ii), which USEPA has marked “Reserved.” This statement maintains structural consistency with the corresponding federal rules.

B) Foreign Corporations. See subsection (q) of this Section.

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.147(g)(2) as subsection (q) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to this subsection (h), (h)(7), or (h)(7)(B) also include added subsection (q) of this Section, as applicable. See the further explanation of the

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

differences between subsection (q) of this Section and 40 CFR 267.147(g)(2) in the Board note appended to subsection (q).

BOARD NOTE: Subsection (h) of this Section is derived from 40 CFR 267.147 ~~(2012)~~ (2013).

- i) Incapacity of owners or operators, guarantors, or financial institutions.
 - 1) The facility owner or operator must notify the Agency by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in subsections (d)(7) and (h)(7) of this Section must make such a notification if it is named as debtor, as required under the terms of the corporate guarantee designated by the Agency pursuant to subsection (l)(3) of this Section.
 - 2) An owner or operator who fulfills the requirements of subsection (d) or (h) of this Section by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

BOARD NOTE: Subsection (i) of this Section is derived from 40 CFR 267.148 ~~(2012)~~ (2013).

- j) This subsection (j) corresponds with 40 CFR 267.149, which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules.
- k) State assumption of responsibility.
 - 1) If the State either assumes legal responsibility for an owner's or operator's compliance with the closure care or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of subsection (d) or (h) of this Section if USEPA Region 5 determines that the State's assumption of responsibility is at least

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

equivalent to the financial mechanisms specified in this Section. USEPA has stated that USEPA Region 5 will evaluate the equivalency of State guarantees principally in terms of the following: the certainty of the availability of funds for the required closure care activities or liability coverage; and the amount of funds that will be made available. USEPA has stated that USEPA Region 5 may also consider other factors as it deems appropriate. The facility owner or operator must submit to USEPA Region 5 a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Section. The letter from the State must include, or have attached to it, the following information: the facility's USEPA identification number, the facility name and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. USEPA has stated that USEPA Region 5 will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Section. USEPA has stated that USEPA Region 5 may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of subsection (d) or (h) of this Section, as applicable.

- 2) If a State's assumption of responsibility is found acceptable as specified in subsection (k)(1) of this Section except for the amount of funds available, the owner or operator may satisfy the requirements of this Section by use of both the State's assurance and additional financial mechanisms as specified in this Section. The amount of funds available through the State and federal mechanisms must at least equal the amount required by this Section.

BOARD NOTE: Subsection (k) of this Section is derived from 40 CFR 267.150 (~~2012~~) (2013).

- 1) Wording of the instruments.
 - 1) Forms for using the corporate financial test to demonstrate financial assurance for closure. The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

specified in subsection (d)(6) of this Section. The letter must be worded as designated by the Agency pursuant to subsection (l)(3) of this Section.

- 2) Forms for using the financial test to demonstrate financial assurance for third-party liability. The chief financial officer of an owner or operator of a facility with a RCRA standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other RCRA standardized permit) facility (or those facilities) must complete a letter as specified in subsection (h)(6) of this Section. The letter must be worded as designated by the Agency pursuant to subsection (l)(3) of this Section.
- 3) The Agency must designate standardized forms based on 40 CFR 264.151 and 40 CFR 267.151 (Wording of the Instruments), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), with such changes in wording as are necessary under Illinois law. Any owner or operator required to establish financial assurance under this Section must do so only upon the standardized forms promulgated by the Agency. The Agency must reject any financial assurance document that is not submitted on such standardized forms.

BOARD NOTE: Subsection (l) of this Section is derived from 40 CFR 267.151 (~~2012~~) (2013).

- m) Financial component for using the corporate financial test to demonstrate financial assurance for closure.
 - 1) The facility owner or operator must satisfy one of the following three conditions:
 - A) A current rating for its senior unsecured debt of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A or Baa, as issued by Moody's; or
 - B) A ratio of less than 1.5 comparing total liabilities to net worth; or
 - C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
 - 2) The tangible net worth of the owner or operator must be greater than both of the following:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- A) The sum of the current environmental obligations (see subsection (n)(1)(A)(i) of this Section), including guarantees, covered by a financial test plus \$10 million, except as provided in subsection (m)(2)(B) of this Section; and
 - B) \$10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations (see subsection (n)(1)(A)(i) of this Section) covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
- 3) The facility owner or operator must have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in subsection (n)(1)(A)(i) of this Section.

BOARD NOTE: Subsection (m) of this Section is derived from 40 CFR 267.143(f)(1) ~~(2012)~~ (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(A) of this Section also include this added subsection (m), as applicable.

- n) Recordkeeping and reporting requirements for using the corporate financial test to demonstrate financial assurance for closure.
 - 1) The facility owner or operator must submit the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer that provides the following information:
 - i) It lists all the applicable current types, amounts, and sums of environmental obligations covered by a financial test. These obligations include both obligations in the programs that USEPA directly operates and obligations where USEPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to the information described in subsection (n)(1)(E) of this Section.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

BOARD NOTE: It was necessary for the Board to codify 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vii) as subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section or to this subsection (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) also include added subsection (n)(1)(E) through (n)(1)(E)(vii) of this Section, as applicable.

- ii) It provides evidence demonstrating that the firm meets the conditions of either subsection (m)(1)(A), (m)(1)(B), or (m)(1)(C) of this Section and subsections (m)(2) and (m)(3) of this Section.
- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance.
- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (m)(1)(B) or (m)(1)(C) of this Section that are different from data in the audited financial statements referred to in subsection (n)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

in accordance with professional auditing standards and ~~shall~~must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in subsection (m)(2)(B) of this Section, then the letter ~~shall~~must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.
- E) Contents of the letter signed by the chief financial officer (for the purposes of subsection (n)(1)(A)(i) of this Section):
- i) The liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to the applicable provisions of 35 Ill. Adm. Code 724.201, 724.242, 724.244, 724.247, 725.242, 725.244, and 725.247;
 - ii) The cost estimates required for municipal solid waste management facilities pursuant to the applicable provisions of Subpart G of 35 Ill. Adm. Code 811;
 - iii) The current plugging cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 704.212;
 - iv) The federally required cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280.93;
 - v) The federally required cost estimates required for PCB storage facilities pursuant to 40 CFR 761.65;
 - vi) Any federally required financial assurance required by or as part of an action undertaken pursuant to the Comprehensive

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Environmental Response, Compensation, and Liability Act
(42 USC 9601 et seq.); and

- vii) Any other environmental obligations that are assured through a financial test.

BOARD NOTE: Subsections (n)(1)(E) through (n)(1)(E)(vi) of this Section are derived from 40 CFR 267.143(f)(2)(i)(A)(I) through (f)(2)(i)(A)(I)(vi) ~~(2012)~~ (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), (d)(6)(B), (n), (n)(1), (n)(1)(A), or (n)(1)(A)(i) of this Section also include added subsections (n)(1)(E) through (n)(1)(E)(vi), as applicable.

- 2) The owner or operator of a new facility must submit the items specified in subsection (n)(1) of this Section to the Agency at least 60 days before placing waste in the facility.
- 3) After the initial submission of items specified in subsection (n)(1) of this Section, the owner or operator must send updated information to the Agency within 90 days following the close of the owner's or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (n)(1) of this Section.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (n) of this Section or comply with the requirements of subsection (d)(6) of this Section when either of the following occurs:
 - A) The owner or operator substitutes alternate financial assurance as specified in subsection (d) of this Section that is not subject to these recordkeeping and reporting requirements; or
 - B) The Agency releases the owner or operator from the requirements of subsection (d) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator who no longer meets the requirements of subsection (m) of this Section cannot use the financial test to demonstrate financial

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

assurance. Instead an owner or operator who no longer meets the requirements of subsection (m) of this Section, must do the following:

- A) It must send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The owner or operator must send this notice by certified mail within 90 days following the close of the owner's or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this subsection (n) and subsections (d), (m), and (o) of this Section; and
 - B) It must provide alternative financial assurance within 120 days after the end of such fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (m) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in this subsection (n). If the Agency finds that the owner or operator no longer meets the requirements of subsection (m) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (d) of this Section.

BOARD NOTE: Subsection (n) of this Section is derived from 40 CFR 267.143(f)(2)-(2012) (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(6), or (d)(6)(B) of this Section also include this added subsection (n), as applicable.

- o) The terms of the guarantee for using the corporate guarantee to demonstrate financial assurance for closure must provide as follows:
 - 1) If the facility owner or operator fails to perform closure at a facility covered by the guarantee, the guarantor will accomplish the following:
 - A) It will perform, or pay a third party to perform closure (performance guarantee); or
 - B) It will establish a fully funded trust fund as specified in subsection (d)(1) of this Section in the name of the owner or operator (payment guarantee).

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 2) The guarantee will remain in force for as long as the facility owner or operator must comply with the applicable financial assurance requirements of this Section unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency as evidenced by the return receipts.
- 3) If notice of cancellation is given, the facility owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the Agency, obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Agency. If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from the Agency within the 90-day period, the guarantor must provide that alternate assurance in the name of the owner or operator and submit the necessary documentation for the alternative assurance to the Agency within 120 days after the cancellation notice.

BOARD NOTE: Subsection (o) of this Section is derived from 40 CFR 267.143(g)(3)-(2012) (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (d), (d)(7), or (d)(7)(C) of this Section also include this added subsection (o), as applicable.

- p) Recordkeeping and reporting requirements.
 - 1) The owner or operator must submit the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer that provides evidence demonstrating that the firm meets the conditions of subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section. If the firm is providing only liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, the letter should use the wording in subsection (l)(2) of this Section. If the firm is providing only liability coverage through a financial test for facilities regulated pursuant to this Part 727, it should use the letter designated by the Agency pursuant to subsection (l)(3) of this Section. If the firm is providing liability coverage through a financial test for a facility or facilities with a permit pursuant to this Part 727, and it assures closure costs or any other environmental obligations through a financial test, it must

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

use the letter in subsection (l)(1) of this Section for the facilities issued a permit pursuant to this Part 727.

- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this subsection (h) within 30 days after the notification of disallowance.
- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsections (h)(6)(A)(i) and (h)(6)(A)(ii) of this Section that are different from data in the audited financial statements referred to in subsection (p)(1)(B) of this Section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report ~~shall~~must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and ~~shall~~must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.
- 2) The owner or operator of a new facility must submit the items specified in subsection (p)(1) of this Section to the Agency at least 60 days before placing waste in the facility.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 3) After the initial submission of items specified in subsection (p)(1) of this Section, the facility owner or operator must send updated information to the Agency within 90 days following the close of the owner's or operator's fiscal year. The Agency may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (p)(1) of this Section.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (p) or comply with the requirements of subsection (h)(6) of this Section when either of the following occurs:
 - A) The facility owner or operator substitutes alternate financial assurance as specified in subsection (h) of this Section that is not subject to these recordkeeping and reporting requirements; or
 - B) The Agency releases the facility owner or operator from the requirements of subsection (h) of this Section in accordance with subsection (d)(10) of this Section.
- 5) An owner or operator that no longer meets the requirements of subsection (h)(6)(A) of this Section cannot use the financial test to demonstrate financial assurance. An owner or operator who no longer meets the requirements of subsection (h)(6)(A) of this Section, must do the following:
 - A) Send notice to the Agency of intent to establish alternate financial assurance as specified in this section. The facility owner or operator must send this notice by certified mail within 90 days following the close of the owner's or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this Section.
 - B) Provide alternative financial assurance within 120 days after the end of that fiscal year.
- 6) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (h)(6)(A) of this Section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in this subsection (p) of this Section. If the

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Agency finds that the owner or operator no longer meets the requirements of subsection (h)(6)(A) of this Section, the owner or operator must provide alternate financial assurance that meets the requirements of subsection (h) of this Section.

BOARD NOTE: Subsection (p) of this Section is derived from 40 CFR 267.147(f)(2)-(2012) (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(6), or (h)(6)(B) of this Section also include this added subsection (p), as applicable.

- q) Foreign corporations.
- 1) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:
 - A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
 - B) The guarantee is governed by Illinois law; and
 - C) The name and address of the guarantor's registered agent for service of process.
 - 2) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

BOARD NOTE: Subsection (q) of this Section is derived from 40 CFR 267.147(g)(2)-(2012) (2013). The Board moved the corresponding federal provision to comport with Illinois Administrative Code indent level codification requirements. The Board intends that any citation to subsection (h), (h)(7), or (h)(7)(B) of this Section also include this added subsection (q), as applicable. The text of 40 CFR 267.147(g)(2) is substantially identical to that of 40 CFR 264.147(g)(2). The Board has substituted the language of 35 Ill. Adm. Code 724.247(g)(2), which corresponds with 40 CFR 264.147(g)(2), for that of 40 CFR 267.147(g)(2).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

COPY

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code citation: 35 Ill. Adm. Code 810
- 3) Section numbers: 810.104 Proposed action: Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27.
- 5) A Complete description of the subjects and issues involved: The amendment to Part 810 is a single segment of the docket consolidated R14-1/R14-2/R14-3 rulemaking that also affects 35 Ill. Adm. Code 720, 727, 811, and 814, 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 consolidated R14-1/R14-2/R14-3 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 5, 2013, proposing amendments in docket consolidated R14-1/R14-2/R14-3, which opinion and order is available from the address below.

Specifically, the amendment to Part 810 update incorporations by reference to the *Code of Federal Regulations* and correct some incorporations by reference. The Board has included one correction to the main source note.

Tables appear in the Board's opinion and order of December 5, 2013 in docket consolidated R14-1/R14-2/R14-3 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 December 5, 2013 opinion and order in docket consolidated R14-1/R14-2/R14-3.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40 (2012)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35 (2012)] 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 proposed amendment replace emergency amendments currently in effect? No.

RECEIVED

DEC 09 2013

SOS.CODE.DIV

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Does this proposed amendment contain incorporations by reference? Yes.
- 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) (2012)].
- 11) Are there any other amendments pending on this Part? No.
- 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 consolidated R14-1/R14-2/R14-3 and be addressed to:

John T. Therriault, 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 consolidated R14-1/R14-2/R14-3:

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

Phone: 312-814-6924
E-mail: michael.mccambridge@illinois.gov

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

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that own or operate a municipal solid waste landfill. These proposed amendments do not create or enlarge a state

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- 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, and maintenance of operating records. 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) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory agenda on which this rulemaking was summarized: 37 Ill. Reg. 9060, 9109-14, 9121-23, June 28, 2013.

The full text of the proposed amendment begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

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

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16167, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10837, effective June 22, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. _____, effective _____.

Section 810.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

1) Code of Federal Regulations:

40 CFR 3.2, ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~ (2013)
(How Does This Part Provide for Electronic Reporting?),
referenced in Section 810.105.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

~~40 CFR 3.3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (2013)~~
(What Definitions Are Applicable to This Part?), referenced in
Section 810.105.

~~40 CFR 3.10, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~
(2013) (What Are the Requirements for Electronic Reporting to
EPA?), referenced in Section 810.105.

~~40 CFR 3.2000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~
(2013) (What Are the Requirements Authorized State, Tribe, and
Local Programs' Reporting Systems Must Meet?), referenced in
Section 810.105.

~~40 CFR 141.40 (2005) (2013)~~ (Monitoring Requirements for
Unregulated Contaminants), referenced in 35 Ill. Adm. Code
811.319 and 817.415.

~~Appendix I to 40 CFR 258 (2006) (2013)~~, referenced
in 35 Ill. Adm. Code 811.319.

~~Appendix II to 40 CFR 258 (2006) (2013)~~, referenced
in 35 Ill. Adm. Code 811.319.

- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

Financial Accounting Standard Board (FASB) Accounting Standards – Current Text, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

American Institute of Certified Public Accountants (AICPA) Professional Standards – Statements on Auditing Standards, June 1, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.
- 3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, “Test Method for Collection of Gross Samples of Coal,” approved 1976, referenced in 35 Ill. Adm. Code 817.103.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985, referenced in 35 Ill. Adm. Code 814.601, 814.701, 814.901, 814.902, and 817.103.

- 4) GASB. Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18, Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs, August 1993, referenced in 35 Ill. Adm. Code 811.716.

- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattsville, MD 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986), referenced in 35 Ill. Adm. Code 816.530.

- 6) U.S. Government Printing Office, Washington, DC 20402, Ph: 202-783-3238:

Method 9095B (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, 1986; Revision 6, January 2005), as amended by Update I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1 EPA-SW-846-03-03B or EPA-530-R-04-037), referenced in 35 Ill. Adm. Code 811.107.

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

(Source: Amended at 38 Ill. Reg. _____, effective _____)

COPY

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards for New Solid Waste Landfills
- 2) Code citation: 35 Ill. Adm. Code 811
- 3)

<u>Section numbers:</u>	<u>Proposed action:</u>
811.107	Amend
811.319	Amend
811.715	Amend
811.716	Amend
- 4) Statutory authority: 415 ILCS 5/7.2, 22.40, and 27.
- 5) A Complete description of the subjects and issues involved: The amendments to Part 811 are a single segment of the docket consolidated R14-1/R14-2/R14-3 rulemaking that also affects 35 Ill. Adm. Code 720, 727, 810, and 814, 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 consolidated R14-1/R14-2/R14-3 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of December 5, 2013, proposing amendments in docket consolidated R14-1/R14-2/R14-3, which opinion and order is available from the address below.

Specifically, the amendments to Part 811 correct and amend various references to incorporations by reference. The Board has included a limited number of corrections and clarifying amendments that are not directly related to incorporations by reference, such as updating references to the *Code of Federal Regulations*, revising the format of references to State and federal regulations, correction of a reference name, and corrections in grammar and style.

Tables appear in the Board's opinion and order of December 5, 2013 in docket consolidated R14-1/R14-2/R14-3 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 December 5, 2013 opinion and order in docket consolidated R14-1/R14-2/R14-3.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40 (2012)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35 (2012)] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the

RECEIVED

DEC 09 2013

SOS-CODE DIV.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 these proposed amendments replace emergency amendments currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No.
- 9) Do these proposed amendments contain incorporations by reference? Yes.
- 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) (2012)].
- 11) Are there any other amendments pending on this Part? No.
- 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 consolidated R14-1/R14-2/R14-3 and be addressed to:

John T. Therriault, 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 consolidated R14-1/R14-2/R14-3:

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

Phone: 312-814-6924
E-mail: michael.mccambridge@illinois.gov

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 own or operate a municipal solid waste landfill. 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) (2012)].
 - 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, and maintenance of operating records. 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) (2012)].
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory agenda on which this rulemaking was summarized: 37 Ill. Reg. 9060, 9109-14, 9121-23, June 28, 2013.

The full text of the proposed amendments begins on the next page:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811

STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section

- 811.101 Scope and Applicability
- 811.102 Location Standards
- 811.103 Surface Water Drainage
- 811.104 Survey Controls
- 811.105 Compaction
- 811.106 Daily Cover
- 811.107 Operating Standards
- 811.108 Salvaging
- 811.109 Boundary Control
- 811.110 Closure and Written Closure Plan
- 811.111 Postclosure Maintenance
- 811.112 Recordkeeping Requirements for MSWLF Units
- 811.113 Electronic Reporting

SUBPART B: INERT WASTE LANDFILLS

Section

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

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section

- 811.301 Scope and Applicability
- 811.302 Facility Location
- 811.303 Design Period
- 811.304 Foundation and Mass Stability Analysis
- 811.305 Foundation Construction

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 811.306 Liner Systems
- 811.307 Leachate Drainage System
- 811.308 Leachate Collection System
- 811.309 Leachate Treatment and Disposal System
- 811.310 Landfill Gas Monitoring
- 811.311 Landfill Gas Management System
- 811.312 Landfill Gas Processing and Disposal System
- 811.313 Intermediate Cover
- 811.314 Final Cover System
- 811.315 Hydrogeologic Site Investigations
- 811.316 Plugging and Sealing of Drill Holes
- 811.317 Groundwater Impact Assessment
- 811.318 Design, Construction, and Operation of Groundwater Monitoring Systems
- 811.319 Groundwater Monitoring Programs
- 811.320 Groundwater Quality Standards
- 811.321 Waste Placement
- 811.322 Final Slope and Stabilization
- 811.323 Load Checking Program
- 811.324 Corrective Action Measures for MSWLF Units
- 811.325 Selection of remedy for MSWLF Units
- 811.326 Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

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

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

811.509 Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section

- 811.700 Scope, Applicability and Definitions
 - 811.701 Upgrading Financial Assurance
 - 811.702 Release of Financial Institution
 - 811.703 Application of Proceeds and Appeals
 - 811.704 Closure and Post-Closure Care Cost Estimates
 - 811.705 Revision of Cost Estimate
 - 811.706 Mechanisms for Financial Assurance
 - 811.707 Use of Multiple Financial Mechanisms
 - 811.708 Use of a Financial Mechanism for Multiple Sites
 - 811.709 Trust Fund for Unrelated Sites
 - 811.710 Trust Fund
 - 811.711 Surety Bond Guaranteeing Payment
 - 811.712 Surety Bond Guaranteeing Performance
 - 811.713 Letter of Credit
 - 811.714 Closure Insurance
 - 811.715 Self-Insurance for Non-Commercial Sites
 - 811.716 Local Government Financial Test
 - 811.717 Local Government Guarantee
 - 811.718 Discounting
 - 811.719 Corporate Financial Test
 - 811.720 Corporate Guarantee
- 811.APPENDIX A Financial Assurance Forms
- ILLUSTRATION A Trust Agreement
 - ILLUSTRATION B Certificate of Acknowledgment
 - ILLUSTRATION C Forfeiture Bond
 - ILLUSTRATION D Performance Bond
 - ILLUSTRATION E Irrevocable Standby Letter of Credit
 - ILLUSTRATION F Certificate of Insurance for Closure and/or Post-Closure Care or Corrective Action
 - ILLUSTRATION G Owner's or Operator's Bond Without Surety
 - ILLUSTRATION H Owner's or Operator's Bond With Parent Surety
 - ILLUSTRATION I Letter from Chief Financial Officer
- 811.APPENDIX B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

811.APPENDIX C List of Leachate Monitoring Parameters

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1435, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16172, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10842, effective June 22, 2011; amended in R10-09(A) at 35 Ill. Reg. 18882, effective October 24, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section 811.107 Operating Standards

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

operations of the facility, so as to shorten the operational phase and allow wastes to be built up to the planned final grade.

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

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

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

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

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

- e) Maintenance. The operator must maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.

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

- f) Open Burning. Open burning is prohibited, except in accordance with 35 Ill. Adm. Code 200 through 245.

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- g) Dust Control. The operator must implement methods for controlling dust, so as to prevent wind dispersal of particulate matter.

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

- h) Noise Control. The facility must be designed, constructed, and maintained to minimize the level of equipment noise audible outside the facility. The facility must not cause or contribute to a violation of 35 Ill. Adm. Code 900 through 905 or of Section 24 of the Act [415 ILCS 5/24].

~~The facility must be designed, constructed, and maintained to minimize the level of equipment noise audible outside the facility. The facility must not cause or contribute to a violation of 35 Ill. Adm. Code 900 through 905 or of Section 24 of the Act [415 ILCS 5/24].~~

- i) Vector Control. The operator must implement measures to control the population of disease and nuisance vectors.

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

- j) Fire Protection. The operator must institute fire protection measures including, but not limited to, maintaining a supply of water onsite and radio or telephone access to the nearest fire department.

~~The operator must institute fire protection measures including, but not limited to, maintaining a supply of water onsite and radio or telephone access to the nearest fire department.~~

- k) Litter Control.

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- l) Mud Tracking. The facility must implement methods, such as use of wheel washing units, to prevent tracking of mud by hauling vehicles onto public roadways.
- m) Liquids Restrictions for MSWLF Units.
 - 1) Bulk or noncontainerized liquid waste may not be placed in MSWLF units, unless one of the following conditions is true:
 - A) The waste is household waste other than septic waste;
 - B) The waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, is designed with a composite liner and leachate collection system that complies with the requirements of Sections 811.306 through 811.309; or
 - C) The Agency has issued an RD&D permit pursuant to 35 Ill. Adm. Code 813.112(a)(2) that allows the placement of noncontainerized liquids in the landfill, and that permit is in effect.
 - 2) Containers holding liquid waste may not be placed in an MSWLF unit, unless one of the following conditions is true:
 - A) The container is a small container similar in size to that normally found in household waste;
 - B) The container is designed to hold liquids for use other than storage; or
 - C) The waste is household waste.
 - 3) For purposes of this Section, the following definitions apply:
 - A) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (~~USEPA Pub. No. SW-846~~), incorporated by reference in 35 Ill. Adm. Code 810.104.
 - B) "Gas condensate" means the liquid generated as a result of gas recovery processes at the MSWLF unit.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

BOARD NOTE: Subsections (m)(1) through (m)(3) of this Section are derived from 40 CFR 258.28-(2004) (2013). Subsection (m)(1)(C) of this Section relating to RD&D permits is derived from 40 CFR 258.4(a)(2)-(2004) (2013).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.319 Groundwater Monitoring Programs

- a) Detection Monitoring Program. Any use of the term maximum allowable predicted concentration in this Section is a reference to Section 811.318(c). The operator must implement a detection monitoring program in accordance with the following requirements:

~~Any use of the term maximum allowable predicted concentration in this Section is a reference to Section 811.318(c). The operator shall implement a detection monitoring program in accordance with the following requirements:~~

- 1) Monitoring Schedule and Frequency.
 - A) The monitoring period ~~shall~~must begin as soon as waste is placed into the unit of a new landfill or within one year of the effective date of this Part for an existing landfill. Monitoring ~~shall~~must continue for a minimum period of fifteen years after closure, or in the case of MSWLF units, a minimum period of 30 years after closure, except as otherwise provided by subsection (a)(1)(C) of this Section. The operator ~~shall~~must sample all monitoring points for all potential sources of contamination on a quarterly basis except as specified in subsection (a)(3), for a period of five years from the date of issuance of the initial permit for significant modification under 35 Ill. Adm. Code 814.104 or a permit for a new unit pursuant to 35 Ill. Adm. Code 813.104. After the initial five-year period, the sampling frequency for each monitoring point ~~shall~~must be reduced to a semi-annual basis, provided the operator has submitted the certification described in 35 Ill. Adm. Code 813.304(b). Alternatively, after the initial five-year period, the Agency ~~shall~~must allow sampling on a semi-annual basis where the operator demonstrates that monitoring effectiveness has not been compromised, that sufficient quarterly data has been collected to characterize groundwater, and that leachate from the monitored unit does not constitute a threat to groundwater. For the purposes

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of this Section, the source ~~shall~~must be considered a threat to groundwater if the results of the monitoring indicate either that the concentrations of any of the constituents monitored within the zone of attenuation is above the maximum allowable predicted concentration for that constituent or, for existing landfills, subject to Subpart D of 35 Ill. Adm. Code 814, ~~Subpart D~~, that the concentration of any constituent has exceeded the applicable standard at the compliance boundary as defined in 35 Ill. Adm. Code 814.402(b)(3).

- B) Beginning fifteen years after closure of the unit, or five years after all other potential sources of discharge no longer constitute a threat to groundwater, as defined in subsection (a)(1)(A) of this Section, the monitoring frequency may change on a well by well basis to an annual schedule if either of the following conditions exist. However, monitoring ~~shall~~must return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in accordance with Section 811.320(e), in the concentration of any constituent with respect to the previous sample.
- i) All constituents monitored within the zone of attenuation have returned to a concentration less than or equal to ten percent of the maximum allowable predicted concentration; or
 - ii) All constituents monitored within the zone of attenuation are less than or equal to their maximum allowable predicted concentration for eight consecutive quarters.
- C) Monitoring ~~shall~~must be continued for a minimum period of: 30 years after closure at MSWLF units, except as otherwise provided by subsections (a)(1)(D) and (a)(1)(E) of this Section; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing waste generated at the site; or 15 years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued under the following conditions:
- i) No statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

sampling for three consecutive years, after changing to an annual monitoring frequency; or

- ii) Immediately after contaminated leachate is no longer generated by the unit.
- D) The Agency may reduce the groundwater monitoring period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- E) An owner or operator of a MSWLF unit ~~shall~~must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the ~~postclosure~~post-closure care monitoring period for all of the following requirements:
- i) Inspection and maintenance (Section 811.111);
 - ii) Leachate collection (Section 811.309);
 - iii) Gas monitoring (Section 811.310); and
 - iv) Groundwater monitoring (Section 811.319).

BOARD NOTE: Changes to subsections (a)(1)(A), ~~and (a)(1)(C), and subsections (a)(1)(D), and (a)(1)(E) of this Section~~ are derived from 40 CFR 258.61-(1992) (2013).

- 2) Criteria for Choosing Constituents to be Monitored.
- A) The operator ~~shall~~must monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents ~~shall~~must be chosen for monitoring if they meet the following requirements:
- i) The constituent appears in, or is expected to be in, the leachate; and
 - ii) Is contained within the following list of constituents:
 - Ammonia – Nitrogen (dissolved)
 - Arsenic (dissolved)

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Boron (dissolved)
Cadmium (dissolved)
Chloride (dissolved)
Chromium (dissolved)
Cyanide (total)
Lead (dissolved)
Magnesium (dissolved)
Mercury (dissolved)
Nitrate (dissolved)
Sulfate (dissolved)
Total Dissolved Solids (TDS)
Zinc (dissolved)

- iii) This is the minimum list for MSWLFs.
 - iv) Any facility accepting more than 50% by volume non-municipal waste must determine additional indicator parameters based upon leachate characteristic and waste content.
- B) One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents. The use of such indicator constituents must be included in an Agency approved permit.
- 3) Organic Chemicals Monitoring. The operator must monitor each existing well that is being used as a part of the monitoring well network at the facility within one year of the effective date of this Part, and monitor each new well within the three months of its establishment. The monitoring required by this subsection (a)(3) must be for a broad range of organic chemical contaminants in accordance with the procedures described below:

~~The operator shall monitor each existing well that is being used as a part of the monitoring well network at the facility within one year of the effective date of this Part, and monitor each new well within the three months of its establishment. The monitoring required by this subsection (a)(3) shall be for a broad range of organic chemical contaminants in accordance with the procedures described below:~~

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) The analysis ~~shall~~ must be at least as comprehensive and sensitive as the tests for the 51 organic chemicals in drinking water described at 40 CFR 141.40-(1988) and appendix I to 40 CFR 258. Appendix I (2006), each incorporated by reference at 35 Ill. Adm. Code 810.104 and:

Acetone
Acrylonitrile
Benzene
Benzene
Bromobenzene
Bromochloromethane
Bromodichloromethane
Bromoform; Tribromomethane
n-Butylbenzene
sec-Butylbenzene
tert-Butylbenzene
Carbon disulfide
Carbon tetrachloride
Chlorobenzene
Chloroethane
Chloroform; Trichloromethane
o-Chlorotoluene
p-Chlorotoluene
Dibromochloromethane
1,2-Dibromo-3-chloropropane
1,2-Dibromoethane
1,2-Dichlorobenzene
1,3-Dichlorobenzene
1,4-Dichlorobenzene
trans-1,4-Dichloro-2-butene
Dichlorodifluoromethane
1,1-Dichloroethane
1,2-Dichloroethane
1,1-Dichloroethylene
cis-1,2-Dichloroethylene
trans-1,2-Dichloroethylene
1,2-Dichloropropane
1,3-Dichloropropane
2,2-Dichloropropane
1,1-Dichloropropene

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1,3-Dichloropropene
cis-1,3-Dichloropropene
trans-1,3-Dichloropropene
Ethylbenzene
Hexachlorobutadiene
2-Hexanone; Methyl butyl ketone
Isopropylbenzene
p-Isopropyltoluene
Methyl bromide; Bromomethane
Methyl chloride; Chloromethane
Methylene bromide; Dibromomethane
Dichloromethane
Methyl ethyl ketone
Methyl iodide; Iodomethane
4-Methyl-2-pentanone
Naphthalene
Oil and Grease (hexane soluble)
n-Propylbenzene
Styrene
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethylene
Tetrahydrofuran
Toluene
Total Phenolics
1,2,3-Trichlorobenzene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
Trichlorofluoromethane
1,2,3-Trichloropropane
1,2,4-Trimethylbenzene
1,3,5-Trimethylbenzene
Vinyl acetate
Vinyl chloride
Xylenes

- B) At least once every two years, the operator ~~shall~~ must monitor each well in accordance with subsection (a)(3)(A) of this Section.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) The operator of a MSWLF unit ~~shall~~must monitor each well in accordance with subsection (a)(3)(A) of this Section on a semi-annual basis.

BOARD NOTE: Subsection (a)(3)(C) of this Section is derived from 40 CFR 258.54(b) ~~(1992)~~ (2013).

4) Confirmation of Monitored Increase.

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

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

- B) The confirmation procedures ~~shall~~must include the following:

- i) The operator ~~shall~~must verify any observed increase by taking additional samples within 90 days after the initial sampling event and ensure that the samples and sampling

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with Section 811.320(e), so as to confirm the observed increase. The operator ~~shall~~ must notify the Agency of any confirmed increase before the end of the next business day following the confirmation.

- ii) The operator ~~shall~~ must determine the source of any confirmed increase, which may include, but ~~shall~~ must not be limited to, natural phenomena, sampling or analysis errors, or an offsite source.
 - iii) The operator ~~shall~~ must notify the Agency in writing of any confirmed increase. The notification must demonstrate a source other than the facility and provide the rationale used in such a determination. The notification must be submitted to the Agency no later than 180 days after the original sampling event. If the facility is permitted by the Agency, the notification must be filed for review as a significant permit modification pursuant to 35 Ill. Adm. Code 813.Subpart B.
 - iv) If an alternative source demonstration described in subsections (a)(4)(B)(ii) and (a)(4)(B)(iii) of this Section cannot be made, assessment monitoring is required in accordance with subsection (b) of this Section.
 - v) If an alternative source demonstration, submitted to the Agency as an application, is denied pursuant to 35 Ill. Adm. Code 813.105, the operator must commence sampling for the constituents listed in subsection (b)(5) of this Section, and submit an assessment monitoring plan as a significant permit modification, both within 30 days after the dated notification of Agency denial. The operator must sample the well or wells that exhibited the confirmed increase.
- b) Assessment Monitoring. The operator must begin an assessment monitoring program in order to confirm that the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with subsection (c) of this Section. The

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

assessment monitoring program must be conducted in accordance with the following requirements:

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

- 1) The assessment monitoring ~~shall~~ must be conducted in accordance with this subsection to collect information to assess the nature and extent of groundwater contamination. The owner or operator of a MSWLF unit ~~shall~~ must comply with the additional requirements prescribed in subsection (b)(5) of this Section. The assessment monitoring ~~shall~~ must consist of monitoring of additional constituents that might indicate the source and extent of contamination. In addition, assessment monitoring may include any other investigative techniques that will assist in determining the source, nature and extent of the contamination, which may consist of, but need not be limited to the following:
 - A) More frequent sampling of the wells in which the observation occurred;
 - B) More frequent sampling of any surrounding wells; and
 - C) The placement of additional monitoring wells to determine the source and extent of the contamination.
- 2) Except as provided for in subsections (a)(4)(B)(iii) and ~~(a)(4)(B)(v)~~ of this Section, the operator of the facility for which assessment monitoring is required ~~shall~~ must file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans ~~shall~~ must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813. ~~Subpart B~~ within 180 days after the original sampling event. The assessment monitoring program ~~shall~~ must be implemented within 180 days after the original sampling event in accordance with subsection (a)(4) of this Section or, in the case of permitted facilities, within 45 days after Agency approval.
- 3) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents, monitored at or beyond the zone of attenuation is above the applicable groundwater quality standards

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of Section 811.320 and is attributable to the solid waste disposal facility, then the operator ~~shall~~must determine the nature and extent of the groundwater contamination including an assessment of the potential impact on the groundwater should waste continue to be accepted at the facility and ~~shall~~must implement the remedial action in accordance with subsection (d) of this Section.

- 4) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents is attributable to the solid waste disposal facility and exceeds the maximum allowable predicted concentration within the zone of attenuation, then the operator ~~shall~~must conduct a groundwater impact assessment in accordance with the requirements of subsection (c) of this Section.
- 5) In addition to the requirements of subsection (b)(1) of this Section, to collect information to assess the nature and extent of groundwater contamination, the following requirements are applicable to MSWLF units:

- A) The monitoring of additional constituents pursuant to subsection (b)(1) of this Section must include, at a minimum (except as otherwise provided in subsection (b)(5)(E) of this Section), the constituents listed in ~~appendix II to 40 CFR 258~~Appendix H, incorporated by reference at 35 Ill. Adm. Code 810.104, and constituents from 35 Ill. Adm. Code 620.410.

BOARD NOTE: Subsection (b)(5)(A) of this Section is derived from 40 CFR 258.55(b) ~~(1992)~~ (2013).

- B) Within 14 days after obtaining the results of sampling required under subsection (b)(5)(A) of this Section, the owner or operator ~~shall~~ must do as follows:
 - i) ~~Place~~ The owner or operator must place a notice in the operating record identifying the constituents that have been detected; and
 - ii) ~~Notify~~ The owner or operator must notify the Agency that such a notice has been placed in the operating record.

BOARD NOTE: Subsection (b)(5)(B) of this Section is derived from 40 CFR 258.55(d)(1) ~~(1992)~~ (2013).

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) The owner or operator ~~shall~~must establish background concentrations for any constituents detected pursuant to subsection (b)(5)(A) of this Section in accordance with Section 811.320(e).

BOARD NOTE: Subsection (b)(5)(C) of this Section is derived from 40 CFR 258.55(d)(3) ~~(1992)~~ (2013).

- D) Within 90 days after the initial monitoring in accordance with subsection (b)(5)(A) of this Section, the owner or operator must monitor for the detected constituents listed in appendix II to 40 CFR 258-Appendix H, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 on a semiannual basis during the assessment monitoring. The operator must monitor all the constituents listed in appendix II to 40 CFR 258-Appendix H and 35 Ill. Adm. Code 620.410 on an annual basis during assessment monitoring.

BOARD NOTE: Subsection (b)(5)(D) of this Section is derived from 40 CFR 258.55(d)(2) ~~(1992)~~ (2012).

- E) The owner or operator may request the Agency to delete any of the ~~appendix H to 40 CFR 258-Appendix H~~ and 35 Ill. Adm. Code 620.410 constituents by demonstrating to the Agency that the deleted constituents are not reasonably expected to be in or derived from the waste contained in the leachate.

BOARD NOTE: Subsection (b)(5)(E) of this Section is derived from 40 CFR 258.55(b) ~~(1992)~~ (2012).

- F) Within 14 days after finding an exceedance above the applicable groundwater quality standards in accordance with subsection (b)(3) of this Section, the owner or operator ~~shall~~ must do as follows:

- i) ~~Place~~ The owner or operator must place a notice in the operating record that identifies the constituents monitored under subsection (b)(1)(D) of this Section that have exceeded the groundwater quality standard;
- ii) ~~Notify~~ The owner or operator must notify the Agency and the appropriate officials of the local municipality or county within whose boundaries the site is located that such a notice has been placed in the operating record; and

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- iii) ~~Notify~~ The owner or operator must notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site.

BOARD NOTE: Subsection (b)(5)(F) of this Section is derived from 40 CFR 258.55(g)(1)(i) through (iii) ~~(1992)~~ (2012).

- G) If the concentrations of all constituents in appendix II to 40 CFR 258-Appendix H, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 ~~constituents~~ are shown to be at or below background values, using the statistical procedures in Section 811.320(e), for two consecutive sampling events, the owner or operator ~~shall~~ must notify the Agency of this finding and may stop monitoring the appendix II to 40 CFR 258-Appendix H and 35 Ill. Adm. Code 620.410 constituents.

BOARD NOTE: Subsection (b)(5)(G) of this Section is derived from 40 CFR 258.55(e) ~~(1992)~~ (2013).

- c) **Assessment of Potential Groundwater Impact.** An operator required to conduct a groundwater impact assessment in accordance with subsection (b)(4) of this Section ~~shall~~ must assess the potential impacts outside the zone of attenuation that may result from confirmed increases above the maximum allowable predicted concentration within the zone of attenuation, attributable to the facility, in order to determine if there is need for remedial action. In addition to the requirements of Section 811.317, the following ~~shall~~ requirements apply:
- 1) The operator ~~shall~~ must utilize any new information developed since the initial assessment and information from the detection and assessment monitoring programs and such information may be used for the recalibration of the GCT model; and
 - 2) The operator ~~shall~~ must submit the groundwater impact assessment and any proposed remedial action plans determined necessary pursuant to subsection (d) of this Section to the Agency within 180 days after the start of the assessment monitoring program.
- d) **Remedial Action.** The owner or operator of a MSWLF unit ~~shall~~ must conduct corrective action in accordance with Sections 811.324, 811.325, and 811.326. The owner or operator of a landfill facility, other than a MSWLF unit, ~~shall~~ must conduct remedial action in accordance with this subsection.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The operator ~~shall~~must submit plans for the remedial action to the Agency. Such plans and all supporting information including data collected during the assessment monitoring ~~shall~~must be submitted within 90 days after determination of either of the following:
 - A) The groundwater impact assessment, performed in accordance with subsection (c) of this Section, indicates that remedial action is needed; or
 - B) Any confirmed increase above the applicable groundwater quality standards of Section 811.320 is determined to be attributable to the solid waste disposal facility in accordance with subsection (b) of this Section.
- 2) If the facility has been issued a permit by the Agency, then the operator ~~shall~~must submit this information as an application for significant modification to the permit;
- 3) The operator ~~shall~~must implement the plan for remedial action program within 90 days after the following:
 - A) Completion of the groundwater impact assessment that requires remedial action;
 - B) Establishing that a violation of an applicable groundwater quality standard of Section 811.320 is attributable to the solid waste disposal facility in accordance with subsection (b)(3) of this Section; or
 - C) Agency approval of the remedial action plan, where the facility has been permitted by the Agency.
- 4) The remedial action program ~~shall~~must consist of one or a combination of one of more of the following solutions:
 - A) Retrofit additional groundwater protective measures within the unit;
 - B) Construct an additional hydraulic barrier, such as a cutoff wall or slurry wall system
 - C) Pump and treat the contaminated groundwater; or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- D) Any other equivalent technique which will prevent further contamination of groundwater.
- 5) Termination of the Remedial Action Program
- A) The remedial action program ~~shall~~must continue in accordance with the plan until monitoring shows that the concentrations of all monitored constituents are below the maximum allowable predicted concentration within the zone of attenuation, below the applicable groundwater quality standards of Section 811.320 at or beyond the zone of attenuation, over a period of four consecutive quarters no longer exist.
- B) The operator ~~shall~~must submit to the Agency all information collected under subsection (d)(5)(A) of this Section. If the facility is permitted then the operator ~~shall~~must submit this information as a significant modification of the permit.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

SUBPART G: FINANCIAL ASSURANCE

Section 811.715 Self-Insurance for Non-Commercial Sites

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

“Assets” means all existing and all probable future economic benefits obtained or controlled by a particular entity.

“Current assets” means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

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

“Generally accepted accounting principles” means the accounting and auditing standards of the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board that are

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

incorporated by reference at in 35 Ill. Adm. Code 810.104(a)(2).

“Gross Revenue” means total receipts less returns and allowances.

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

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

“Net working capital” means current assets minus current liabilities.

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

“Tangible net worth” means tangible assets less liabilities; tangible assets to not include intangibles such as goodwill and rights to patents or royalties.

- b) Information to be filed. An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:

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

- 1) Bond without surety promising to pay the cost estimate (subsection (c) of this Section).
 - 2) Proof that the owner or operator meets the gross revenue test (subsection (d) of this Section).
 - 3) Proof that the owner or operator meets the financial test (subsection (e) of this Section).
- c) Bond without surety. An owner or operator utilizing self-insurance must provide a bond without surety on the forms specified in Appendix A, Illustration G of this Part. The owner or operator must promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and post-closure care in accordance with the closure and post-closure care plans.
- d) Gross revenue test. The owner or operator must demonstrate that less than one-

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

half of its gross revenues are derived from waste disposal operations. Revenue is “from waste disposal operations” if it would stop upon cessation of the owner or operator's waste disposal operations.

- e) Financial test.
 - 1) To pass the financial test, the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this Section:
 - A) The owner or operator must have:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and
 - ii) Net working capital and tangible net worth each at least six times the current cost estimate; and
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets and at least six times the current cost estimate.
 - B) The owner or operator must have:
 - i) A current rating of AAA, AA, A, or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A, or Baa, as issued by Moody; ~~and~~
 - ii) Tangible net worth at least six times the current cost estimate; ~~and~~
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.
 - 2) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I; ~~and~~
- B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and
- C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating ~~that the~~ following:
 - i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
- f) Updated Information.
 - 1) After the initial submission of items specified in subsections (d) and (e) 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.
 - 2) If the owner or operator no longer meets the requirements of subsections (d) and (e) of this Section, the owner or operator must send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.
- g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) of this Section includes an adverse opinion or a disclaimer of opinion, the Agency must disallow the use of self-insurance. If the opinion includes other qualifications, the Agency must disallow the use of self-insurance if:
 - 1) The qualifications relate to the numbers that are used in the gross revenue test or the financial test; and,

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.
- h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by either of the following means:
 - 1) Demonstrating that a corporation that owns an interest in the owner or operator meets the requirements of this Section; and
 - 2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 811.711(d), (e), (f), and (g) of this Part.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 811.716 Local Government Financial Test

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) of this Section may demonstrate financial assurance up to the amount specified in subsection (d) of this Section.

- a) Financial component.
 - 1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) of this Section, as applicable:
 - A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or
 - B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:
 - i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
 - ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.
 - 2) The unit of local government owner or operator must prepare its financial

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

3) A unit of local government is not eligible to assure its obligations pursuant to this Section if any of the following is true:

- A) It is currently in default on any outstanding general obligation bonds;
- B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;
- C) It operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or
- D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required pursuant to subsection (a)(2) of this Section. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

4) Terms used in this Section are defined as follows:

“Cash plus marketable securities” is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

“Debt service” is the amount of principal and interest due on a loan in a given time period, typically the current year.

“Deficit” equals total annual revenues minus total annual expenditures.

“Total revenues” include revenues from all taxes and fees but does

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

“Total expenditures” include all expenditures excluding capital outlays and debt repayment.

- b) Public notice component.
 - 1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.
 - 2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.
 - 3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.
 - 4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.
 - 5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.
- c) Recordkeeping and reporting requirements.
 - 1) The unit of local government owner or operator must place the following items in the facility's operating record:
 - A) A letter signed by the unit of local government's chief financial officer that provides the following information:

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) of this Section;
 - ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) of this Section; and
 - iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) of this Section.
 - B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].
 - C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) of this Section, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) of this Section. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings.
 - D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) of this Section or certification that the requirements of ~~General~~ Government Accounting Standards Board Statement 18, incorporated by reference in Section 810.104, have been met.
- 2) The items required in subsection (c)(1) of this Section must be placed in the facility operating record as follows:
- A) In the case of closure and post-closure care, before November 27, 1997 or prior to the initial receipt of waste at the facility, whichever is later; or

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.
 - 3) After the initial placement of the items in the facility operating record, the unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.
 - 4) The unit of local government owner or operator is no longer required to meet the requirements of subsection (c) of this Section when either of the following occurs:
 - A) The owner or operator substitutes alternative financial assurance as specified in this Section; or
 - B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).
 - 5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 120 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained, and submit evidence of the alternative financial assurance to the Agency.
 - 6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.
- d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure pursuant to this

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section is determined as follows:

- 1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.
- 2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities pursuant to 35 Ill. Adm. Code 704.213; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure pursuant to this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.
- 3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) of this Section.

BOARD NOTE: Derived from 40 CFR 258.74(f) ~~(2005)~~ (2013).

(Source: Amended at 38 Ill. Reg. _____, effective _____)