OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

June 29, 2018

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 42, Issue 27 of the Illinois Register, dated 7/6/2018.

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

Notice of Public Information
Point of Contact: Nancy Hoepfner 13282

PROPOSED RULES

Underground Injection Control Operating Requirements
35 Ill. Adm. Code 730 12549
Point of Contact: Mike McCambridge

Standards for Universal Waste Management
35 Ill. Adm. Code 733 12649
Point of Contact: Mike McCambridge

Hazardous Waste Injection Restrictions
35 Ill. Adm. Code 738 12694
Point of Contact: Mike McCambridge

Standards for the Management of Used Oil
35 Ill. Adm. Code 739 12722
Point of Contact: Mike McCambridge

Solid Waste Disposal: General Provisions
35 Ill. Adm. Code 810 12782
Point of Contact: Mike McCambridge

Standards for New Solid Waste Landfills

35 Ill. Adm. Code 811 — 12807
Point of Contact: Mike McCambridge

Information to be Submitted in a Permit Application
35 Ill. Adm. Code 812 — 12914
Point of Contact: Mike McCambridge

REGULATORY AGENDA
Permits and General Provisions
35 Ill. Adm. Code 201 — 13328
Point of Contact: Nancy Hoepfner

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Underground Injection Control Operating Requirements

2) Code Citation: 35 Ill. Adm. Code 730

3)

Section Numbers:	Proposed Actions:
730.101	Amendment
730.102	Amendment
730.103	Amendment
730.104	Amendment
730.105	Amendment
730.106	Amendment
730.108	Amendment
730.113	Amendment
730.132	Amendment
730.133	Amendment
730.134	Amendment
730.151	Amendment
730.161	Amendment
730.162	Amendment
730.164	Amendment
730.165	Amendment
730.167	Amendment
730.171	Amendment
730.172	Amendment
730.181	Amendment
730.182	Amendment
730.184	Amendment
730.185	Amendment
730.188	Amendment
730.189	Amendment
730.190	Amendment
730.191	Amendment
730.193	Amendment
730.194	Amendment
730.195	Amendment

4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27.

5) A complete description of the subjects and issues involved: The amendments to Part 730 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 733, 738,

739, and 810 through 812, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 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 702. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 730 make several needed corrections in the text of the rules.

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

Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

12) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period

of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 730
UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

SUBPART A: GENERAL

Section

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section

SUBPART C: CRITERIA AND STANDARDS APPLICABLE TO CLASS II INJECTION WELLS

Section

SUBPART D: CRITERIA AND STANDARDS APPLICABLE TO CLASS III INJECTION WELLS

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

730.193 Post-Injection Site Care and Site Closure
730.194 Emergency and Remedial Response
730.195 Alternative Class VI Injection Well Depth Requirements

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

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19 at 7 Ill. Reg. 14426, effective March 3, 1984; recodified at 10 Ill. Reg. 14174; amended in R89-2 at 14 Ill. Reg. 3130, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11959, effective July 9, 1990; amended in R93-6 at 17 Ill. Reg. 15646, effective September 14, 1993; amended in R94-5 at 18 Ill. Reg. 18391, effective December 20, 1994; amended in R95-4 at 19 Ill. Reg. 10047, effective June 27, 1995; amended in R00-11/R01-1 at 24 Ill. Reg. 18680, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1281, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1661, January 20, 2012; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 730.101 Applicability, Scope, and Effective Date

a) This Part sets forth technical criteria and standards for the Underground Injection Control (UIC) Program. This Part must be read in conjunction with 35 Ill. Adm. Code 702, 704, and 705, which also apply to the UIC program. 35 Ill. Adm. Code 702 and 704 prescribe the regulatory requirements for the UIC permit program. 35 Ill. Adm. Code 704 further outlines hazardous waste management requirements and sets forth the financial assurance requirements applicable to Class I hazardous waste injection wells and requirements applicable to certain types of Class V injection wells. 35 Ill. Adm. Code 705 describes the procedures the Agency must use for issuing UIC permits.

b) Any ~~On and after February 1, 1984, any~~ underground injection that is not authorized by rule or by permit is unlawful.

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

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3 and 145.11(a)(33) (2017) ~~(2011)~~.

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

Section 730.102 Laws Authorizing Regulations

The laws authorizing these regulations and all other UIC program regulations are included in the Environmental Protection Act ~~[415 ILCS 5]~~, as amended.

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

Section 730.103 Definitions

The following definitions apply to the underground injection control program.

"Abandoned well" means a well whose use has been permanently discontinued or that is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, 42 USC 6901).

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit, including any additions, revisions, or modifications to the forms. For RCRA, application also includes the information required by the Agency pursuant to 35 Ill. Adm. Code 703.182-703.188 and 703.200 (contents of Part B of the RCRA application).

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

"Area of review" means the area surrounding an "injection well" described according to the criteria set forth in Section 730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter mile) or a number calculated according to the criteria set forth in Section 730.106.

"Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud

into porous ground or to prevent water, gas, or other fluid from entering or leaving the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

"Cementing" means the operation whereby a cement slurry is pumped into a drilled hole or forced behind the casing.

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

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confining zone" means a geologic formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

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

"Conventional mine" means an open pit or underground excavation for the production of minerals.

~~"Date of approval by USEPA of the Illinois UIC program" means February 1, 1984.~~

"Director" means the Director of the Illinois Environmental Protection Agency or the Administrator's designee.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

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

~~"Effective date of the UIC program" means February 1, 1984.~~

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

"EPA" or "USEPA" means the United States Environmental Protection Agency.

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

"Existing injection well" means an "injection well" other than a "new injection well.".

"Experimental technology" means a technology that has not been proven feasible under the conditions in which it is being tested.

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

"Fault" means a surface or zone of rock fracture along which there has been displacement.

"Flow rate" means the volume per unit time of the flow of a gas or other fluid substance that emerges from an orifice, pump or turbine or which passes along a conduit or channel.

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

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

"Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.

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

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" or "HWM facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several

treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

"HWM facility" means Hazardous waste management facility.

"Illinois" means the State of Illinois.

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

"Injection well" means a well into which fluids are being injected.

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

"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under RCRA, UIC, or the Environmental Protection Act.

"Packer" means a device lowered into a well that can be expanded to produce a fluid-tight seal.

"Permit" means an authorization, license, or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status (Subpart C of 35 Ill. Adm. Code 703), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

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

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration, and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations that are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

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

"Pressure" means the total load or force per unit area acting on a surface.

"Project" means a group of wells in a single operation.

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

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

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

"SDWA" means the Safe Drinking Water Act (42 USC 300(f) et seq.).

"Septic system" means a well that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sole or principal source aquifer" means an aquifer that has been designated by the Administrator pursuant to Section 1424(a) or (e) of SDWA (42 USC 300h-3(a) or (e)).

"State" means the State of Illinois.

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

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

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

"Surface casing" means the first string of well casing to be installed in the well.

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

"UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act (42 USC 300h through 300h-8), including the approved Illinois program.

"Underground injection" means a "well injection.".

"Underground source of drinking water" or "USDW" means an aquifer or its portion of which the following is true:

It supplies any public water system; or

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

It currently supplies drinking water for human consumption; or

It contains less than 10,000 mg/ℓ total dissolved solids; and

It is not an exempted "aquifer.".

"USDW" means underground source of drinking water.

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

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

"Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing, and hydraulic fracturing.

BOARD NOTE: Derived from 40 CFR 146.3 (2017) ~~(2011)~~.

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

Section 730.104 Criteria for Exempted Aquifers

An aquifer or a portion of an aquifer that meets the criteria for an "underground source of drinking water" in Section 730.103 is an "exempted aquifer" for a Class I, Class III, or Class V injection well if the Board determines pursuant to 35 Ill. Adm. Code 704.123 that the aquifer meets the criteria of either subsections (a) and (b) or (a) and (c) ~~of this Section~~. For a Class VI injection well, the Board must determine that the well meets the criteria of subsection (d) ~~of this Section~~.

a) The aquifer does not currently serve as a source of drinking water; and

b) The aquifer cannot now and will not in the future serve as a source of drinking water because one or more of the following is true of the aquifer:

1) The aquifer is mineral, hydrocarbon, or geothermal energy producing, or a permit applicant can demonstrate, as part of a permit application for a Class II or III injection well, that the aquifer contains minerals or hydrocarbons that are expected to be commercially producible considering their quantity and location;

2) The aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

3) The aquifer is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

4) The aquifer is located over a Class III injection well mining area subject to subsidence or catastrophic collapse; or

c) The total dissolved solids content of the groundwater in the aquifer is more than 3,000 and less than 10,000 mg/ℓ, and the aquifer is not reasonably expected to supply a public water system.

d) The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well is expanded for the exclusive purpose of Class VI injection for geologic sequestration pursuant to 35 Ill. Adm. Code 704.123(d) if the Agency determines that the aquifer meets the following criteria:

1) The aquifer does not currently serve as a source of drinking water;

2) The total dissolved solids content of the ground water in the aquifer is greater than 3,000 mg/ℓ and less than 10,000 mg/ℓ; and

3) The aquifer is not reasonably expected to supply a public water system.

BOARD NOTE: Derived from 40 CFR 146.4 (2017) ~~(2011)~~.

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

Section 730.105 Classification of Injection Wells

Injection wells are classified as follows:

a) Class I injection wells. A Class I injection well is any of the following:

1) A Class I hazardous waste injection well that is used by a generator of hazardous waste or an owner or operator of a hazardous waste management facility to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

2) An industrial or municipal disposal well that injects fluids beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

3) A radioactive waste disposal well that injects fluids below the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.

b) Class II injection wells. A Class II injection well is one that injects any of the following types of fluids:

1) Fluids that are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

2) Fluids that are used for enhanced recovery of oil or natural gas; and

3) Fluids that are used for storage of hydrocarbons that are liquid at standard temperature and pressure.

c) Class III injection wells. A Class III injection well is one that injects fluid for extraction of minerals, including one used in any of the following activities:

1) Mining of sulfur by the Frasch process;

2) In situ production of uranium or other metals. This category includes only in situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included in Class V; or

3) Solution mining of salts or potash.

BOARD NOTE: Class III injection well would include a well that is used for the recovery of geothermal energy to produce electric power, but would not include a well that is used in heating or aquaculture that falls under Class V.

d) Class IV injection wells. A Class IV injection well is any of the following:

1) A well used by a generator of hazardous waste or of radioactive waste, by an owner or operator of a hazardous waste management facility, or by an owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste into a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.

2) A well used by a generator of hazardous waste or of radioactive waste, by an owner or operator of a hazardous waste management facility, or by an owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.

3) A well used by a generator of hazardous waste or an owner or operator of a hazardous waste management facility to dispose of hazardous waste that cannot be classified pursuant to subsection (a)(1), (d)(1), or (d)(2) ~~of this Section~~ (e.g., wells used to dispose of hazardous wastes into or above a formation that contains an aquifer that has been exempted pursuant to Section 730.104).

e) Class V injection wells. A Class V injection well is any not included in Class I, Class II, Class III, Class IV, or Class VI. Specific types of Class V injection wells include the following:

1) Air conditioning return flow wells used to return the water used in a heat pump for heating or cooling to the supply aquifer;

2) Cesspools, including multiple dwelling, community, or regional cesspools, or other devices that receive wastes that have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools or to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;

3) Cooling water return flow wells used to inject water previously used for cooling;

4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;

5) Dry wells used for the injection of wastes into a subsurface formation;

6) Recharge wells used to replenish the water in an aquifer;

7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;

8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;

9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;

10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

11) Radioactive waste disposal wells other than Class IV injection wells;

12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture, or production of electric power;

13) Wells used for solution mining of conventional mines such as stopes leaching;

14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and

15) Injection wells used in experimental technologies.

f) Class VI injection wells. A Class VI injection well is any of the following:

1) An injection well that is not experimental in nature and which is used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;

2) An injection well that is used for geologic sequestration of carbon dioxide and which has been granted a permit that includes alternative injection well depth requirements pursuant to Section 730.195; or

3) An injection well that is used for geologic sequestration of carbon dioxide and which has received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 730.104 and 35 Ill. Adm. Code 704.123(d).

BOARD NOTE: Derived from 40 CFR 146.5 (2017) ~~(2011)~~.

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

Section 730.106 Area of Review

The area of review for each injection well or each field, project, or area in Illinois must be determined according to either subsection (a) or (b) ~~of this Section~~. The Agency may solicit input from the owners or operators of injection wells within Illinois as to which method is most appropriate for each geographic area or field.

a) Zone of endangering influence.

1) The zone of endangering influence must be the applicable of the following:

A) In the case of an application for a well permit pursuant to 35 Ill. Adm. Code 704.161, that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water; or

B) In the case of an application for an area permit pursuant to 35 Ill. Adm. Code 704.162, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water.

2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified This equation illustrates one form that the mathematical model may take.

$$r = \sqrt{\frac{2.25kHt}{S \times 10^{x}}}$$

where:

$$x = \frac{4\pi KH\left(h_{w} - h_{bo} \times S_{b}G_{b}\right)}{2.3Q}$$

r = Radius of endangering influence from injection well (length)

k = Hydraulic conductivity of the injection zone (length/time)

H = Thickness of the injection zone (length)

t = Time of injection (time)

S = Storage coefficient (dimensionless)

Q = Injection rate (volume/time)

h_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking water

h_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water

S_pG_b = Specific gravity of fluid in the injection zone (dimensionless)

π = 3.14159 (dimensionless).

3) The above equation is based on the following assumptions:

A) The injection zone is homogenous and isotropic;

B) The injection zone has infinite area extent;

C) The injection well penetrates the entire thickness of the injection zone;

D) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and

E) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.

b) Fixed radius.

1) In the case of an application for a well permit pursuant to 35 Ill. Adm. Code 704.161, a fixed radius around the well of not less than 402 meters (one-quarter mile) may be used.

2) In the case of an application for an area permit pursuant to 35 Ill. Adm. Code 704.162, a fixed width of not less than 402 meters (one-quarter mile) for the circumscribing area may be used.

3) In determining the fixed radius, the following factors must be taken into consideration: the chemistry of injected and formation fluids; the hydrogeology; the population and groundwater use and dependence; and historical practices in the area.

c) If the area of review is determined by a mathematical model pursuant to subsection (a) ~~of this Section~~, the permissible radius is the result of such calculation even if it is less than 402 meters (one-quarter mile).

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

Section 730.108 Mechanical Integrity

a) The owner or operator must demonstrate mechanical integrity when required by other Sections. An injection well has mechanical integrity if both of the following conditions are fulfilled:

1) There is no significant leak in the casing, tubing, or packer; and

2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection bore.

b) One of the following tests must be used to demonstrate the absence of significant leaks pursuant to subsection (a)(1) ~~of this Section~~:

1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Agency, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or

2) A pressure test with liquid or gas.

c) One of the following methods may be used to determine the absence of significant fluid movement pursuant to subsection (a)(2) ~~of this Section~~:

1) The results of a temperature or noise log;

2) For Class III injection wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (c)(1) ~~of this Section~~, cementing records demonstrating the presence of adequate cement to prevent migration; or

3) For Class III injection wells where the Agency elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by 35 Ill. Adm. Code 730.113(b) must be designed to verify the absence of significant fluid movement.

d) The Agency may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (b) and (c) ~~of this Section~~. To obtain approval, the owner or operator must submit a written request to the Agency that sets forth the proposed test and all technical data supporting its use. The Agency must approve the request if the test will reliably demonstrate the mechanical integrity of wells for which its use is proposed.

e) In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Agency, the owner or operator and the Agency must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, it must include a description of the test and the method used. In making its evaluation, the Agency must review monitoring and other test data submitted since the previous evaluation.

f) The Agency may require additional or alternative tests if the results presented by the owner or operator pursuant to subsection (e) ~~of this Section~~ are not satisfactory to the Agency to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

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

SUBPART B: CRITERIA AND STANDARDS APPLICABLE TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section 730.113 Operating, Monitoring, and Reporting Requirements

a) Operating Requirements. Operating requirements must, at a minimum, specify the following:

1) That, except during stimulation, injection pressure at the wellhead must not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case must injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water;

2) That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited; and

3) That, unless an alternative to a packer has been approved pursuant to Section 730.112(c), the annulus between the tubing and the long string of casings must be filled with a fluid approved by permit condition, and a pressure prescribed by permit condition must be maintained on the annulus.

b) Monitoring Requirements. Monitoring requirements must, at a minimum, include all of the following:

1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;

2) Installation and use of continuous recording devices to monitor injection pressure, flow rate, and volume, and the pressure on the annulus between the tubing and the long string of casing;

3) A demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well; and

4) The type, number, and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured, and the frequency of monitoring.

c) Reporting Requirements. Reporting requirements must, at a minimum, include:

1) Quarterly reports to the Agency on each of the following:

A) The physical, chemical, and other relevant characteristics of injection fluids;

B) The monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure; and

C) The results of monitoring prescribed pursuant to subsection (b)(4) ~~of this Section~~.

2) Reporting the results, with the first quarterly report after the completion of each of the following:

A) Periodic tests of mechanical integrity;

B) Any other test of the injection well conducted by the permittee if required by permit condition; and

C) Any well work over.

d) Ambient monitoring.

1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Agency must require the owner or operator to develop a monitoring program. At a minimum, the Agency must require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.

2) When prescribing a monitoring system the Agency may also require:

A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the owner or operator must, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;

B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition or to provide other site-specific data;

C) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;

D) Periodic monitoring of the ground water quality in the lowermost USDW; and

E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.13 (2017) ~~(2005)~~.

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

SUBPART D: CRITERIA AND STANDARDS APPLICABLE TO CLASS III INJECTION WELLS

Section 730.132 Construction Requirements

a) A new Class III injection well must be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Agency may waive the cementing requirements for a new well in existing projects or portions of existing projects where it has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors must be considered:

1) The depth to the injection zone;

2) The injection pressure, external pressure, internal pressure, axial loading, etc.;

3) The hole size;

4) The size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);

5) The corrosiveness of injected fluids and formation fluids;

6) The lithology of injection and confining zones; and

7) The type and grade of cement.

b) Appropriate logs and other tests must be conducted during the drilling and construction of a new Class III injection well. A descriptive report interpreting the results of such logs and tests must be prepared by a knowledgeable log analyst and submitted to the Agency. The logs and tests appropriate to each type of Class III injection well must be determined based on the intended function, depth, construction, and other characteristics of the well; the availability of similar data in the area of the drilling site; and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks must

be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they must be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.

c) Where the injection zone is a formation that is naturally water-bearing, the following information concerning the injection zone must be determined or calculated for a new Class III injection well or project:

1) The fluid pressure;

2) The fracture pressure; and

3) The physical and chemical characteristics of the formation fluids.

d) Where the injection formation is not a water-bearing formation, the information in subsection (c)(2) ~~of this Section~~ must be submitted.

e) Where injection is into a formation that contains water with less than 10,000 mg/ℓ TDS, monitoring wells must be completed into the injection zone and into any underground sources of drinking water above the injection zone that could be affected by the mining operation. These wells must be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells must be located so that they will not be physically affected.

f) Where injection is into a formation that does not contain water with less than 10,000 mg/ℓ TDS, no monitoring wells are necessary in the injection stratum.

g) Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells must be completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into the USDW. The monitoring wells must be located outside the physical influence of the subsidence or catastrophic collapse.

h) In determining the number, location, construction, and frequency of monitoring of the monitoring wells the following criteria must be considered:

1) The population relying on the USDW affected or potentially affected by the injection operation;

2) The proximity of the injection operation to points of withdrawal of drinking water;

3) The local geology and hydrology;

4) The operating pressures and whether a negative pressure gradient is being maintained;

5) The nature and volume of the injected fluid, the formation water, and the process by-products; and

6) The injection well density.

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

Section 730.133 Operating, Monitoring, and Reporting Requirements

a) Operating requirements. Operating requirements prescribed must, at a minimum, specify each of the following:

1) That, except during well stimulation, the injection pressure at the wellhead must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case must injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water; and

2) That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.

b) Monitoring requirements. Monitoring requirements must, at a minimum, specify the information set forth in subsections (b)(1) through (b)(5) ~~of this Section~~:

1) Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by Section 730.134(a)(7)(C) is incorrect or incomplete, the owner or operator must provide the Agency with a new analysis as required by Section 730.134(a)(7)(C);

2) Monitoring of injection pressure and either flow rate or volume semimonthly, or metering and daily recording of injected and produced fluid volumes, as appropriate;

3) Demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well for salt solution mining;

4) Monitoring of the fluid level in the injection zone semi-monthly, where appropriate, and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 730.132(e) semi-monthly; and

5) Quarterly monitoring of wells required by Section 730.132(g).

6) A Class III injection well may be monitored on a field or project basis, rather than on an individual well basis, by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.

c) Reporting requirements. Reporting requirements must, at a minimum, include the information set forth in subsections (c)(1) and (c)(2) ~~of this Section~~, subject to subsection (c)(3) ~~of this Section~~:

1) Quarterly reporting to the Agency on required monitoring; and

2) Results of mechanical integrity and any other periodic test required by the Agency reported with the first regular quarterly report after the completion of the test.

3) Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

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

Section 730.134 Information to be Considered by the Agency

This Section sets forth information that must be considered by the Agency in authorizing a Class III injection well. Certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

a) Prior to the issuance of a permit to operate an existing Class III injection well or area or for the construction of a new Class III injection well, the Agency must consider the following:

1) The information required in 35 Ill. Adm. Code 702.120 through 702.124 and 704.161(c);

2) A map showing the injection well or project area for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map;

3) A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required pursuant to subsection (a)(2) ~~of this Section~~ that penetrate the proposed injection zone. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Agency may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Agency may elect to only require data on a representative number of wells;

4) Maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movements, where known, in every underground source of drinking water that may be affected by the proposed injection;

5) Maps and cross-sections detailing the geologic structure of the local area;

6) Generalized map and cross-sections illustrating the regional geologic setting;

7) Proposed operating data, as follows:

A) The average and maximum daily rate and volume of fluid to be injected;

B) The average and maximum injection pressure; and

C) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in 35 Ill. Adm. Code 101.107. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations that must not be exceeded. In such a case the applicant must retain records of the undisclosed concentrations and provide them upon request to the Agency as part of any enforcement investigation;

8) A proposed formation testing program to obtain the information required by Section 730.132(c);

9) A proposed stimulation program;

10) The proposed injection procedure;

11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;

12) Plans (including maps) for meeting the monitoring requirements of Section 730.133(b);

13) Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;

14) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into underground sources of drinking water;

15) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189; and

16) The corrective action proposed to be taken pursuant to 35 Ill. Adm. Code 704.193.

b) Prior to granting approval for the operation of a Class III injection well, the Agency must consider the following information:

1) All available logging and testing data on the well;

2) A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution pursuant to Section 730.108;

3) The anticipated maximum pressure and flow rate at which the permittee will operate;

4) The results of the formation testing program;

5) The actual injection procedures; and

6) The status of corrective action on defective wells in the area of review.

c) Prior to granting approval for the plugging and abandonment of a Class III injection well, the Agency must consider the following information:

1) The type and number of plugs to be used;

2) The placement of each plug including the elevation of the top and bottom;

3) The type, grade, and quantity of cement to be used;

4) The method of placement of the plugs; and

5) The procedure to be used to meet the requirements of Section 730.110(c).

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

SUBPART F: CRITERIA AND STANDARDS APPLICABLE TO CLASS V INJECTION WELLS

Section 730.151 Applicability

This Subpart F sets forth criteria and standards for underground injection control programs to regulate all injection not regulated in Subparts B, D, and E ~~of this Part~~. A Class II injection well, however, is not regulated by this Subpart F.

a) Generally, a well covered by this Subpart F injects non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 730.105(e) but is not limited to those types of injection wells.

b) It also includes a well not covered in Class IV that injects radioactive materials listed in table II, column 2 in appendix B to 10 CFR 20 (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO CLASS I HAZARDOUS WASTE INJECTION WELLS

Section 730.161 Applicability and Definitions

a) This Subpart G establishes criteria and standards for underground injection control programs to regulate Class I hazardous waste injection wells. Unless otherwise noted, this Subpart G supplements the requirements of Subpart A ~~of this Part~~ and applies instead of Subpart B ~~of this Part~~ to a Class I hazardous waste injection well.

b) Definitions. The following definitions apply for the purposes of this Subpart G:

"Cone of influence" means that area around the well within which increased injection zone pressures caused by injection into the hazardous waste injection well would be sufficient to drive fluids into a USDW.

"Existing well" means a Class I hazardous waste injection well that had a UIC permit or UIC permit by rule prior to August 25, 1988, or a well that has become a Class I hazardous waste injection well as a result of a change in the definition of the injected waste which would render the waste hazardous pursuant to 35 Ill. Adm. Code 721.103.

"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"New well" means any Class I hazardous waste injection well that is not an existing well.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 146.61 (2017) ~~(2005)~~.

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

Section 730.162 Minimum Criteria for Siting

a) All Class I hazardous waste injection wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 402 meters (one-quarter mile) of the well bore, a USDW.

b) The siting of a Class I hazardous waste injection well must be limited to an area that is geologically suitable. The Agency must determine geologic suitability based upon its consideration of the following:

1) An analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity of the region;

2) An analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding stratigraphy, structure, and rock properties; aquifer hydrodynamics; and mineral resources; and

3) A determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted through the use of models.

c) Class I hazardous waste injection wells must be sited such that the following is true:

1) The injection zone has sufficient permeability, porosity, thickness, and area extent to prevent migration of fluids into USDWs; and

2) The confining zone is as follows:

A) It is laterally continuous and free of transecting, transmissive faults, or fractures over an area sufficient to prevent the movement of fluids into a USDW; and

B) It contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures.

d) The owner or operator must demonstrate one of the alternatives in subsections (d)(1) through (d)(3) ~~of this Section~~ to the Agency, subject to subsection (d)(4) ~~of this Section~~:

1) That the confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault;

2) That, within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW,

considering density effects, injection pressures, and any significant pumping in the overlying USDW; or

3) There is no USDW present.

4) The owner or operator of a site that does not meet the requirements in subsection (d)(1), (d)(2), or (d)(3) ~~of this Section~~ may petition the Board for an adjusted standard pursuant to Subpart D of 35 Ill. Adm. Code 104. The Board may grant an adjusted standard approving such a site if it determines that because of site geology, nature of the wastes involved, or other considerations; abandoned boreholes; or other conduits would not cause an endangerment of USDWs. A petition for an adjusted standard pursuant to this subsection (d)(4) must include the following components:

A) Those portions of a permit application for the particular injection activities and site that are relevant to the Board's determination; and

B) Such other relevant information that the Board may by order require pursuant to 35 Ill. Adm. Code 104.228.

BOARD NOTE: Derived from 40 CFR 146.62 (2017) ~~(2005)~~.

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

Section 730.164 Corrective Action for Wells in the Area of Review

For the purposes of a Class I hazardous waste injection well, this Section applies instead of 35 Ill. Adm. Code 704.193 and Section 730.107.

a) The owner or operator of a Class I hazardous waste injection well must, as part of the permit application, submit a plan to the Agency outlining the protocol used to accomplish both of the following:

1) Identify all wells penetrating the confining zone or injection zone within the area of review; and

2) Determine whether wells are adequately completed or plugged.

b) The owner or operator of a Class I hazardous waste injection well must identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and must submit both of the following, as required in Section 730.170(a):

1) A tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and

2) A description of each well or type of well and any records of its plugging or completion.

c) For wells that the Agency determines are improperly plugged, completed, or abandoned or for which plugging or completion information is unavailable, the applicant must also submit a plan consisting of such steps or modification as are necessary to prevent movement of fluids into or between USDWs. Where the plan is adequate, the Agency must incorporate it into the permit as a condition. Where the Agency's review of an application indicates the permittee's plan is inadequate (based at a minimum on the factors in subsection (e) ~~of this Section~~), the Agency must do the appropriate of the following:

1) It must require the applicant to revise the plan;

2) It must prescribe a plan for corrective action as a condition of the permit; or

3) It must deny the application.

d) Requirements.

1) Existing injection wells. Any permit issued for an existing Class I hazardous waste injection well requiring corrective action other than pressure limitations must include a compliance schedule pursuant to 35 Ill. Adm. Code 702.162 requiring any corrective action accepted or prescribed pursuant to subsection (c) ~~of this Section~~. Any such compliance schedule must provide for compliance no later than two years following issuance of the permit and must require observance of appropriate pressure limitations pursuant to subsection (d)(3) ~~of this Section~~ until all other corrective action measures have been implemented.

2) New injection wells. No owner or operator of a new Class I hazardous waste injection well may begin injection until all corrective actions required pursuant to this Section have been taken.

3) The Agency may require pressure limitations instead of plugging. If pressure limitations are used instead of plugging, the Agency must require as a permit condition that injection pressure be limited so that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into or

between USDWs. This pressure limitation must satisfy the corrective action requirements. Alternatively, such injection pressure limitation may be made part of a compliance schedule pursuant to 35 Ill. Adm. Code 702.162 and may be required to be maintained until all other required corrective actions have been implemented.

e) The Agency must consider the following criteria and factors in determining the adequacy of corrective action proposed by the applicant pursuant to subsection (c) ~~of this Section~~ and in determining the additional steps needed to prevent fluid movement into and between USDWs:

1) The nature and volume of injected fluid;

2) The nature of native fluids or byproducts of injection;

3) Geology;

4) Hydrology;

5) The history of the injection operation;

6) Any completion and plugging records;

7) The closure procedures in effect at the time the well was closed;

8) Any hydraulic connections with USDWs;

9) The reliability of the procedures used to identify abandoned wells; and

10) Any other factors that might affect the movement of fluids into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.64 (2017) ~~(2005)~~.

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

Section 730.165 Construction Requirements

a) General. All existing and new Class I hazardous waste injection wells must be constructed and completed to accomplish each of the following:

1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;

2) Permit the use of appropriate testing devices and workover tools; and

3) Permit continuous monitoring of injection tubing and long string casing as required pursuant to Section 730.167(f);

b) Compatibility. All well materials must be compatible with fluids with which the materials may be expected to come into contact. The owner or operator must employ any compatibility testing method specified by permit condition. The owner or operator may otherwise refer to "Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells,", USEPA publication number EPA-570/9-87-002, incorporated by reference at 35 Ill. Adm. Code 720.111.

c) Casing and cementing new wells.

1) Casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well, including the post-closure care period. The casing and cementing program must be designed to prevent the movement of fluids into or between USDWs, and to prevent potential leaks of fluids from the well. The Agency must consider the following information as required by Section 730.170 in determining and specifying casing and cementing requirements:

A) The depth to the injection zone;

B) The injection pressure, external pressure, internal pressure, and axial loading;

C) The hole size;

D) The size and grade of all casing strings (well thickness, diameter, nominal weight, length, joint specification, and construction material);

E) The corrosiveness of injected fluid, formation fluids, and temperature;

F) The lithology of the injection and confining zones;

G) The type or grade of cement; and

H) The quantity and chemical composition of the injected fluid.

2) One surface casing string must, at a minimum, extend into the confining bed below the lowest formation that contains a USDW and be cemented by circulating cement from the base of the casing to the surface, using a minimum of 120 percent of the calculated annular volume. The Agency may require more than 120 percent when the geology or other circumstances warrant it.

3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages:

A) Of sufficient quantity and quality to withstand the maximum operating pressure; and

B) In a quantity no less than 120 percent of the calculated volume necessary to fill the annular space. The Agency must require more than 120 percent when the geology or other circumstances warrant it.

4) Circulation of cement may be accomplished by staging. The Agency may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous and does not allow fluid movement behind the well bore.

5) Casings, including any casing connections, must be rated to have sufficient structural strength to withstand both of the following conditions for the design life of the well:

A) The maximum burst and collapse pressures that may be experienced during the construction, operation, and closure of the well; and

B) The maximum tensile stress that may be experienced at any point along the length of the casing during the construction, operating, and closure of the well.

6) At a minimum, cement and cement additives must be of sufficient quality and quantity to maintain integrity over the design life of the well.

d) Tubing and packer.

1) All Class I hazardous waste injection wells must inject fluids through tubing with a packer set at a point specified by permit condition.

2) In determining and specifying requirements for tubing and packer, the following factors must be considered:

A) The depth of setting;

B) The characteristics of injection fluid (chemical content, corrosiveness, temperature, and density);

C) The injection pressure;

D) The annular pressure;

E) The rate (intermittent or continuous), temperature, and volume of injected fluid;

F) The size of casing; and

G) The tubing tensile, burst, and collapse strengths.

3) The Agency may approve the use of a fluid seal if it determines in writing that the following conditions are met:

A) The operator demonstrates that the seal will provide a level of protection comparable to a packer;

B) The operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;

C) The permit contains specific limitations on variations in annular pressure and loss of annular fluid;

D) The design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and

E) A secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

BOARD NOTE: Derived from 40 CFR 146.65 (2017) ~~(2005)~~.

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

Section 730.167 Operating Requirements

a) Except during stimulation, the owner or operator must assure that injection pressure at the wellhead does not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. The owner or operator must assure that the injection pressure does not initiate fractures or propagate existing fractures in the confining zone, nor cause the movement of injection or formation fluids into a USDW.

b) Injection between the outermost casing protecting USDWs and the well bore is prohibited.

c) The owner or operator must maintain an annulus pressure that exceeds the operating injection pressure, unless the Agency determines in writing that such a requirement might harm the integrity of the well. The fluid in the annulus must be noncorrosive, or must contain a corrosion inhibitor.

d) The owner or operator must maintain mechanical integrity of the injection well at all times.

e) Permit requirements for owners or operators of hazardous waste injection wells that inject wastes that have the potential to react with the injection formation to generate gases must include the following:

1) Conditions limiting the temperature, pH, or acidity of the injected waste; and

2) Procedures necessary to assure that pressure imbalances that might cause a backflow or blowout do not occur.

f) The owner or operator must install and use continuous recording devices to monitor each of the following: the injection pressure; the flow rate, volume, and temperature of injected fluids; and the pressure on the annulus between the tubing and the long string casing, and must install and use either of the following:

1) Automatic alarm and automatic shut-off systems, designed to sound and shut-in the well when pressures and flow rates or other parameters specified by permit condition exceed a range or gradient specified in the permit; or

2) Automatic alarms, designed to sound when the pressures and flow rates or other parameters exceed a rate or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on-site at all times when the well is operating.

g) If an automatic alarm or shutdown is triggered, the owner or operator must immediately investigate and identify the cause of the alarm or shutoff without undue delay. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required pursuant to subsection (f) ~~of this Section~~ otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must undertake all of the following actions:

1) It must stop injecting waste fluids unless authorized by permit condition to continue or resume injection;

2) It must take all necessary steps to determine the presence or absence of a leak; and

3) It must notify the Agency within 24 hours after the alarm or shutdown.

h) If a loss of mechanical integrity is discovered pursuant to subsection (g) ~~of this Section~~ or during periodic mechanical integrity testing, the owner or operator must undertake all of the following actions:

1) It must immediately cease injection of waste fluids;

2) It must take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;

3) It must notify the Agency within 24 hours after loss of mechanical integrity is discovered;

4) It must notify the Agency when injection can be expected to resume; and

5) It must restore and demonstrate mechanical integrity pursuant to Section 730.108 prior to resuming injection of waste fluids.

i) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone, the following must occur:

1) The owner or operator must immediately cease injection of waste fluids, and undertake all of the following actions:

A) It must notify the Agency within 24 hours of obtaining such evidence;

B) It must take all necessary steps to identify and characterize the extent of any release;

C) It must comply with any remediation plan specified by permit condition;

D) It must implement any remediation plan specified by permit condition; and

E) Where such release is into a USDW currently serving as a water supply, it must place a notice in a newspaper of general circulation.

2) The Agency must permit the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs.

j) The owner or operator must notify the Agency and obtain a permit modification prior to conducting any well workover.

BOARD NOTE: Derived from 40 CFR 146.67 (2017) ~~(2005)~~.

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

Section 730.171 Closure

a) Closure plan. The owner or operator of a Class I hazardous waste injection well must prepare, maintain, and comply with a plan for closure of the well that meets the requirements of subsection (d) ~~of this Section~~ and is specified by permit condition. The obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

1) The owner or operator must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.

2) The owner or operator must submit any proposed significant revision to the method of closure reflected in the plan for approval by the Agency no later than the date on which notice of closure is required to be submitted to the Agency pursuant to subsection (b) ~~of this Section~~.

3) The plan must assure financial responsibility, as required in 35 Ill. Adm. Code 704.189.

4) The plan must include the following information:

A) The type and number of plugs to be used;

B) The placement of each plug including the evaluation of the top and bottom of each plug;

C) The type and grade and quantity of material to be used in plugging;

D) The method of placement of the plugs;

E) Any proposed test or measure to be made;

F) The amount, size, and location (by depth) of casing and any other materials to be left in the well;

G) The method and location where casing is to be parted, if applicable;

H) The procedure to be used to meet the requirements of subsection (d)(5) ~~of this Section~~; and

I) The estimated cost of closure.

5) The Agency must modify a closure plan following the procedures of Subpart C of 35 Ill. Adm. Code 702.

6) An owner or operator of a Class I hazardous waste injection well who stops injection temporarily, may keep the well open if the conditions of subsections ~~subsection~~ (a)(6)(A) and (a)(6)(B) ~~of this Section~~ are true of owner or operator, subject to subsection (a)(6)(C) ~~of this Section~~:

A) Has received authorization from the Agency; and

B) Has described actions or procedures, satisfactory to the Agency, that the owner or operator will take actions to ensure that the well will not

endanger USDWs during the period of temporary disuse. These actions and procedures must include compliance with the technical requirements applicable to active injection wells unless otherwise waived by permit condition.

C) For the purposes of this subsection (a), submitting a description of actions or procedures for Agency authorization is in the nature of a permit application, and the owner or operator may appeal the Agency's decision to the Board.

7) The owner or operator of a well that has ceased operations for more than two years must notify the Agency at least 30 days prior to resuming operation of the well.

b) Notice of intent to close. The owner or operator must notify the Agency at least 60 days before closure of a well.

c) Closure report. Within 60 days after closure, or at the time of the next quarterly report (whichever is less), the owner or operator must submit a closure report to the Agency. If the quarterly report is due less than 15 days after completion of closure, then the report must be submitted within 60 days after closure. The report must be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report must consist of either of the following documents:

1) A statement that the well was closed in accordance with the closure plan previously submitted and approved by the Agency; or

2) Where actual closure differed from the plan previously submitted, a written statement specifying the differences between the previous plan and the actual closure.

d) Standards for well closure.

1) Prior to closing the well, the owner or operator must observe and record the pressure decay for a time specified by permit condition. The Agency must analyze the pressure decay and the transient pressure observations conducted pursuant to Section 730.168(e)(1)(A) and determine whether the injection activity has conformed to predicted values.

2) Prior to well closure, appropriate mechanical integrity testing must be conducted to ensure the integrity of that portion of the long string casing and

cement that will be left in the ground after closure. Testing methods may include the following:

A) Pressure tests with liquid or gas;

B) Radioactive tracer surveys;

C) Noise, temperature, pipe evaluation, or cement bond logs; and

D) Any other test required by permit condition.

3) Prior to well closure, the well must be flushed with a buffer fluid.

4) Upon closure, a Class I hazardous waste injection well must be plugged with cement in a manner that will not allow the movement of fluids into or between USDWs.

5) Placement of the cement plugs must be accomplished by one of the following means:

A) The Balance Method;

B) The Dump Bailer Method;

C) The Two-Plug Method; or

D) An alternative method, specified by permit condition, that will reliably provide a comparable level of protection.

6) Each plug used must be appropriately tagged and tested for seal and stability before closure is completed.

7) The well to be closed must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by permit condition, prior to the placement of the cement plugs.

BOARD NOTE: Derived from 40 CFR 146.71 (2017) ~~(2005)~~.

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

Section 730.172 Post-Closure Care

a) The owner or operator of a Class I hazardous waste injection well must prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) ~~of this Section~~ and is specified by permit condition. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.

1) The owner or operator must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.

2) The owner or operator must submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required pursuant to Section 730.171(c).

3) The plan must assure financial responsibility, as required in Section 730.173.

4) The plan must include the following information:

A) The pressure in the injection zone before injection began;

B) The anticipated pressure in the injection zone at the time of closure;

C) The predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;

D) The predicted position of the waste front at closure;

E) The status of any cleanups required pursuant to Section 730.164; and

F) The estimated cost of proposed post-closure care.

5) At the request of the owner or operator, or on its own initiative, the Agency may modify the post-closure plan after submission of the closure report following the procedures in 35 Ill. Adm. Code 705.128.

b) The owner or operator must undertake each of the following activities:

1) It must continue and complete any cleanup action required pursuant to Section 730.164, if applicable;

2) It must continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The Agency must extend the period of post-closure monitoring if it determines in writing that the well may endanger a USDW;

3) It must submit a survey plat to the local zoning authority designated by permit condition. The plat must indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat must be submitted to USEPA, Region 5;

4) It must notify the Illinois Department of Natural Resources, Office of Mines and Minerals, the State Department of Public Health, and any unit of local government authorized to grant permits under the Water Well Construction Code [415 ILCS 30] in the area where the well is located as to the depth and location of the well and the confining zone; and

5) It must retain, for a period of three years following well closure, records reflecting the nature, composition, and volume of all injected fluids. Owners or operators must deliver the records to the Agency at the conclusion of the retention period.

c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, must record a notation on the deed to the facility property or on some other instrument that is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:

1) The fact that land has been used to manage hazardous waste;

2) The names of the Illinois Department of Natural Resources, Office of Mines and Minerals and the local zoning authority with which the plat was filed, as well as the address of USEPA Region 5; and

3) The type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.

d) In addition to the requirements stated in this Section, each owner of a Class I hazardous waste injection well must comply with any other State or federal law or

local ordinance that requires the reporting of any potential environmental or physical impairment of real property to subsequent or prospective owners.

BOARD NOTE: The Responsible Property Transfer Act of 1988 [765 ILCS 90] (RPTA) formerly required the disclosure and recordation of any environmental impairment of real property in Illinois. The General Assembly repealed that statute in P.A. 92-299, Section 5, effective August 9, 2001. Section 10 of that repeal provided for continued maintenance of documents prepared and recorded under RPTA prior to its repeal.

BOARD NOTE: Derived from 40 CFR 146.72 (2017) ~~(2011)~~.

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

SUBPART H: CRITERIA AND STANDARDS APPLICABLE TO CLASS VI WELLS

Section 730.181 Applicability

a) This Subpart H establishes criteria and standards for Class VI carbon dioxide geologic sequestration injection wells.

b) This Subpart H applies to any injection well that is used to inject carbon dioxide specifically for the purpose of geologic sequestration.

c) This Subpart H also applies to the owner or operator of a permit- or rule-authorized Class I, Class II, or Class V experimental carbon dioxide injection well that seeks to apply for a Class VI geologic sequestration permit for its well. An owner or operator that seeks to convert an existing Class I, Class II, or Class V experimental injection well to a Class VI geologic sequestration well must demonstrate to the Agency that the well was engineered and constructed to meet the requirements of Section 146.86(a) and to ensure protection of USDWs, in lieu of requirements at Sections 146.86(b) and 146.87(a). The ~~By December 10, 2011, the~~ owner or operator of either a Class I injection well that was previously permitted for the purpose of geologic sequestration or a Class V experimental technology injection well that is no longer being used for experimental purposes and which will continue injection of carbon dioxide for the purpose of geologic sequestration must apply for a Class VI permit. A converted well must still meet all other requirements of this Part.

d) Definitions. The following definitions apply to this Subpart H. To the extent that these definitions conflict with those that appear in 35 Ill. Adm. Code 702.110 or Section 730.103, the definitions of this Section govern for Class VI wells:

"Area of review" means the region surrounding the geologic sequestration project where a USDW may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids, and is based on available site characterization, monitoring, and operational data, as set forth in Section 730.184.

"Carbon dioxide plume" means the sub-surface three-dimensional extent underground of an injected carbon dioxide stream.

"Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This Subpart H does not apply to any carbon dioxide stream that meets the definition of a hazardous waste in 35 Ill. Adm. Code 721.103.

"Confining zone" means a geologic formation, a group of formations, or a part of a formation that stratigraphically overlies an injection zone and which acts as barrier to fluid movement. For a Class VI injection well that is operating under a permit that includes alternative injection well depth requirements, "confining zone" means a geologic formation, a group of formations, or a part of a formation that stratigraphically overlies and underlies the injection zone.

"Corrective action" means the use of Agency-approved methods to ensure that wells within an area of review do not serve as conduits for the movement of fluids into a USDW.

"Geologic sequestration" means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.

"Geologic sequestration project" means any of the following three types of injection wells:

An injection well or wells that are used to emplace a carbon dioxide stream beneath the lowermost formation containing a USDW;

An injection well or wells that are used for geologic sequestration of carbon dioxide and which have been granted a permit that includes alternative injection well depth requirements pursuant to requirements at Section 730.195; or

An injection well or wells that are used for geologic sequestration of carbon dioxide and which have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 730.104 and 35 Ill. Adm. Code 704.123(d).

A geologic sequestration project includes the subsurface three-dimensional extent of the carbon dioxide plume, the associated area of elevated pressure, and displaced fluids, as well as the surface area above that delineated region.

"Injection zone" means a geologic formation, a group of formations, or a part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.

"Post-injection site care" means appropriate monitoring and other actions (including corrective action) needed following cessation of injection to ensure that no USDW is endangered, as required under Section 730.193.

"Pressure front" means the zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For the purposes of this Subpart H, the pressure front of a carbon dioxide plume refers to a zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.

"Site closure" means the point or time, as determined by the Agency pursuant to Section 730.193, at which the owner or operator of a geologic sequestration site is released from post-injection site care responsibilities.

"Transmissive fault or fracture" means a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: This Section corresponds with 40 CFR 146.81 (2017) ~~(2011)~~.

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

Section 730.182 Required Class VI Injection Well Permit Information

This Section sets forth the information that the Agency must consider when authorizing a Class VI injection well. For a converted Class I, Class II, or Class V experimental injection well, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, readily available to the Agency, and sufficiently identified as to be retrieved. In cases where USEPA issues the permit, all the information in this Section must be submitted to the USEPA, Region 5.

a) Prior to the issuance of a permit for the construction of a new Class VI injection well or the conversion of an existing Class I, Class II, or Class V injection well to a Class VI injection well, the owner or operator must submit, pursuant to Section 730.191(e), and the Agency must consider, the following:

1) The information required by 35 Ill. Adm. Code 702.123(a) through (f);

2) A map showing the injection well for which a permit is sought and the applicable area of review consistent with Section 730.184. Within the area of review, the map must show the number or name and location of all injection wells, producing wells, abandoned wells, plugged wells, or dry holes; deep stratigraphic boreholes; Agency- or USEPA-approved subsurface cleanup sites; surface bodies of water, springs, mines (surface and subsurface), quarries, water wells; and other pertinent surface features, including structures intended for human occupancy, state boundaries, and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;

3) Information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, including the following documents and information:

A) Maps and cross sections of the area of review;

B) The location, orientation, and properties of known or suspected faults and fractures that may transect the confining zones in the area of review and a determination that the faults and fractures would not interfere with containment;

C) Data on the depth, areal extent, thickness, mineralogy, porosity, permeability, and capillary pressure of the injection and confining zones; including geology and facies changes based on field data, which may include geologic cores, outcrop data, seismic surveys, well logs, and names and lithologic descriptions;

D) Geomechanical information on fractures, stress, ductility, rock strength, and in-situ fluid pressures within the confining zones;

E) Information on the seismic history that includes the presence and depth of seismic sources and a determination that the seismicity would not interfere with containment; and

F) Geologic and topographic maps and cross sections that illustrate regional geology, hydrogeology, and the geologic structure of the local area;

4) A tabulation of all wells within the area of review that penetrate the injection or confining zones. The tabulated data must include a description of each well's type, construction, date drilled, location, depth, applicable records of plugging and completion, and any additional information that the Agency may require to evaluate the request for a permit;

5) Maps and stratigraphic cross sections indicating the general vertical and lateral limits of all USDWs, water wells, and springs within the area of review, their positions relative to the injection zones, and the direction of water movement, where known;

6) Baseline geochemical data on subsurface formations that includes all USDWs in the area of review;

7) Proposed operating data for the proposed geologic sequestration site that includes that following items of information:

A) The average and maximum daily rate and volume or mass, and the total anticipated volume or mass, of the carbon dioxide stream;

B) The average and maximum injection pressures;

C) The sources of the carbon dioxide stream; and

D) An analysis of the chemical and physical characteristics of the carbon dioxide stream;

8) A proposed program for pre-operational formation testing that fulfills the requirements of Section 730.187 to obtain an analysis of the chemical and physical characteristics of the injection zones and confining zones;

9) A proposed stimulation program, a description of stimulation fluids to be used, and a determination that stimulation will not interfere with containment;

10) A proposed procedure to outline steps necessary to conduct injection operation;

11) Schematics or other appropriate drawings of the surface and subsurface construction details of the well;

12) Injection well construction procedures that fulfill the requirements of Section 730.186;

13) A proposed area of review and corrective action plan that fulfills the requirements of Section 730.184;

14) A demonstration which is sufficient to support an Agency determination that the applicant has met the financial responsibility requirements under Section 730.185;

15) A proposed testing and monitoring plan, as required by Section 730.190;

16) A proposed injection well plugging plan, as required by Section 730.192(b);

17) A proposed post-injection site care and site closure plan, as required by Section 730.193(a);

18) At the Agency's discretion, a demonstration of an alternative post-injection site care timeframe required, as required by Section 730.193(c);

19) A proposed emergency and remedial response plan, as required by Section 730.194(a);

20) A list of contacts, submitted to the Agency, for those states identified to be within the area of review of the Class VI project based on information provided pursuant to subsection (a)(2) ~~of this Section~~; and

21) Any other information requested by the Agency that would support an Agency determination whether to issue the requested permit.

b) Pursuant to this Section, and as required by 40 CFR 145.23(f)(13), the Agency must notify any states that the Agency determines are within the area of review of the Class VI project based on information submitted pursuant to subsections (a)(2) and (a)(20) ~~of this Section~~ of the permit application in writing.

c) Prior to granting a permit for the operation of a Class VI injection well, the Agency must consider the following information:

1) The final area of review based on modeling, using data obtained during the logging and testing of the well and the formation required by subsections (c)(2), (c)(3), (c)(4), (c)(6), (c)(7), and (c)(10) ~~of this Section~~;

2) Any relevant updates to the information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, submitted pursuant to subsection (a)(3) ~~of this Section~~, based on data obtained during the logging and testing of the well and the formation required by subsections (c)(3), (c)(4), (c)(6), (c)(7), and (c)(10) ~~of this Section~~;

3) Information on the compatibility of the carbon dioxide stream with fluids in the injection zones and minerals in both the injection and the confining zones, based on the results of the formation testing program, and with the materials used to construct the well;

4) The results of the formation testing program required by subsection (a)(8) ~~of this Section~~;

5) Final injection well construction procedures that fulfill the requirements of Section 730.186;

6) The status of any corrective action on wells in the area of review;

7) All available logging and testing program data on the well required by Section 730.187;

8) A demonstration of mechanical integrity pursuant to Section 730.189;

9) Any updates to the proposed area of review and corrective action plan, the testing and monitoring plan, the injection well plugging plan, the post-injection site care and site closure plan, or the emergency and remedial response plan, and any updates to the alternative post-injection site care timeframe demonstration, which the applicant has submitted pursuant to subsection (a) ~~of this Section~~, that are necessary to address new information collected during logging and testing of the well and the formation, as required by this Section; and

10) Any other information requested by the Agency.

d) An owner or operator which seeks a permit that includes alternative injection well depth requirements to the generally applicable requirement to inject below the lowermost USDW must also refer to Section 730.195 and submit a supplemental report, as required at Section 730.195(a). The supplemental report is not part of the permit application.

BOARD NOTE: This Section corresponds with 40 CFR 146.82 (2017) ~~(2011)~~.

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

Section 730.184 Area of Review and Corrective Action

a) The area of review is the region surrounding the geologic sequestration project where the injection activity may endanger a USDW. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and which is based on available site characterization, monitoring, and operational data.

b) The owner or operator of a Class VI injection well must prepare, maintain, and comply with a plan to delineate the area of review for a proposed geologic sequestration project; must periodically reevaluate the delineation; and must perform corrective action that meets the requirements of this Section and which is sufficient to support an Agency determination that the corrective action is acceptable. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the permit application to the Agency, the owner or operator must submit an area of review and corrective action plan that includes the following information:

1) The method that the owner or operator will use for delineating the area of review which meets the requirements of subsection (c) ~~of this Section~~, including the model that the owner or operator will use, assumptions that the owner or operator will make, and the site characterization data on which the owner or operator will base the model;

2) A description of each of the following:

A) The minimum fixed frequency, not to exceed five years, at which the owner or operator proposes to reevaluate the area of review;

B) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation as determined by the minimum fixed frequency established pursuant to subsection (b)(2)(A) ~~of this Section~~;

C) How monitoring and operational data (e.g., injection rate, pressure, etc.) will be used to inform an area of review reevaluation; and

D) How the owner or operator will conduct corrective action to meet the requirements of subsection (d) ~~of this Section~~, including the following information:

i) What corrective action the owner or operator will perform prior to injection;

ii) What, if any, portions of the area of review the owner or operator will address with corrective action on a phased basis and how that phasing will be determined;

iii) How the owner or operator will adjust corrective action if there are changes in the area of review; and

iv) How the owner or operator will guarantee site access for future corrective action.

c) The owner or operator of a Class VI injection well must perform the following actions to delineate the area of review and identify all wells that require corrective action:

1) The owner or operator must predict, using existing site characterization, monitoring and operational data, and computational modeling, the

projected lateral and vertical migration of the carbon dioxide plume and formation fluids in the subsurface from the commencement of injection activities until the plume movement ceases, until pressure differentials sufficient to cause the movement of injected fluids or formation fluids into a USDW are no longer present, or until the end of a fixed time period determined by the Agency. The model must fulfill the following requirements:

A) The model must be based on detailed geologic data collected to characterize the injection zones, confining zones and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the geologic sequestration project;

B) The model must take into account any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions; and

C) The model must consider potential migration through faults, fractures, and artificial penetrations.

2) Using methods approved by the Agency, the owner or operator must identify all penetrations, including active and abandoned wells and underground mines, in the area of review that may penetrate the confining zones and must provide a description of each well's type, construction, date drilled, location, depth, record of plugging and/ or completion, and any additional information the Agency may require; and

3) The owner or operator must determine which abandoned wells in the area of review have been plugged in a manner that prevents the movement of carbon dioxide or other fluids that may endanger USDWs, including use of materials compatible with the carbon dioxide stream.

d) The owner or operator of a Class VI injection well must perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of fluid into or between USDWs, including use of materials compatible with the carbon dioxide stream, where appropriate.

e) At the minimum fixed frequency, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational

conditions warrant, the owner or operator of a Class VI injection well must fulfill each of the following requirements:

1) The owner or operator must reevaluate the area of review in the same manner specified in subsection (c)(1) ~~of this Section~~;

2) The owner or operator must identify all wells in the reevaluated area of review that require corrective action in the same manner specified in subsection (c) ~~of this Section~~;

3) The owner or operator must perform corrective action on wells requiring corrective action in the reevaluated area of review in the same manner specified in subsection (d) ~~of this Section~~; and

4) The owner or operator must submit an amended area of review and corrective action plan or demonstrate through monitoring data and modeling results sufficiently to support an Agency finding that no amendment to the area of review and corrective action plan is needed. Any amendments to the area of review and corrective action plan must be approved by the Agency, must be incorporated into the permit, and are subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate.

f) The emergency and remedial response plan (as required by Section 730.194) and the demonstration of financial responsibility (as described by Section 730.185) must account for the area of review delineated as specified in subsection (c)(1) ~~of this Section~~ or the most recently evaluated area of review delineated pursuant to subsection (e) ~~of this Section~~, regardless of whether corrective action in the area of review is phased.

g) The owner or operator must retain all modeling inputs and data used to support area of review reevaluations under subsection (e) ~~of this Section~~ for 10 years.

BOARD NOTE: This Section corresponds with 40 CFR 146.84 (2017) ~~(2011)~~.

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

Section 730.185 Financial Responsibility

a) The owner or operator of an injection well to which this Subpart H applies must demonstrate and maintain financial responsibility that the Agency has determined fulfills the following conditions:

1) The financial responsibility instruments used must be from the following list of qualifying instruments:

   A) A trust fund;

   B) A surety bond;

   C) A letter of credit;

   D) Insurance;

   E) Self insurance (i.e., the financial test and corporate guarantee);

   F) An escrow account; or

   G) Any other instruments that the Agency determines are satisfactory.

2) The qualifying instruments must be sufficient to cover the following costs:

   A) The costs of corrective action (that meets the requirements of Section 730.184);

   B) The costs of injection well plugging (that meets the requirements of Section 730.192);

   C) The costs of post-injection site care and site closure (that meets the requirements of Section 730.193); and

   D) The costs of emergency and remedial response (that meets the requirements of Section 730.194).

3) The financial responsibility instruments must be sufficient to address endangerment of underground sources of drinking water.

4) The qualifying financial responsibility instruments must comprise protective conditions of coverage.

   A) Protective conditions of coverage must include, at a minimum, cancellation, renewal, and continuation provisions; specifications on when the provider becomes liable following a notice of cancellation if there is a failure to renew with a new qualifying financial instrument, and requirements for the provider to meet a

minimum rating, minimum capitalization, and have the ability to pass the bond rating when applicable.

i) Cancellation. For purposes of this Subpart H, the owner or operator must provide that its financial mechanism may not cancel, terminate, or fail to renew, except for failure to pay that financial instrument. If there is a failure to pay the financial instrument, the financial institution may elect to cancel, terminate, or fail to renew the instrument by sending notice by certified mail to the owner or operator and the Agency. The cancellation must not be final for 120 days after receipt of cancellation notice by the owner or operator and the Agency. The owner or operator must provide an alternative financial responsibility demonstration within 60 days after notice of cancellation, and if an alternate financial responsibility demonstration is not acceptable (or possible), any funds from the instrument being cancelled must be released within 60 days of notification by the Agency.

ii) Renewal. For purposes of this Subpart H, an owner or operator must renew all financial instruments, if an instrument expires, for the entire term of the geologic sequestration project. The instrument may be automatically renewed, as long as the owner or operator has the option of renewal at the face amount of the expiring instrument. The automatic renewal of an instrument must, at a minimum, provide the holder with the option of renewal at the face amount of the expiring financial instrument.

iii) Cancellation, termination, or failure to renew may not occur and the financial instrument will remain in full force and effect in the event that any of the following occurs on or before the date of expiration: the Agency deems the facility abandoned; or the permit is revoked or a new permit is denied; closure is ordered by the Agency or a court of competent jurisdiction; the owner or operator is named as debtor in a voluntary or involuntary bankruptcy proceeding under Title 11 of the United States Code; or the amount due on the instrument is fully paid.

B) This subsection (a)(4)(B) would correspond with 40 CFR 706.85(a)(4)(ii) if such existed. USEPA codified a paragraph (a)(4)(i) without a paragraph (a)(4)(ii). Illinois codification requirements do not allow codification of a subsection level unless multiple subsections exist at that level. This statement maintains structural consistency with the corresponding federal rules.

5) The qualifying financial responsibility instruments must be approved by the Agency.

A) The Agency must consider and approve the financial responsibility demonstration for all the phases of the geologic sequestration project prior to issuing a Class VI injection well permit (Section 730.182).

B) The owner or operator must provide any updated information related to their financial responsibility instruments on an annual basis and if there are any changes, the Agency must evaluate, within a reasonable time, the financial responsibility demonstration to confirm that the instruments used remain adequate for use. The owner or operator must maintain financial responsibility requirements regardless of the status of the Agency's review of the financial responsibility demonstration.

C) The Agency must disapprove the use of a financial instrument if the Agency determines that it is not sufficient to meet the requirements of this Section.

6) The owner or operator may demonstrate financial responsibility by using one or multiple qualifying financial instruments for specific phases of the geologic sequestration project.

A) In the event that the owner or operator combines more than one instrument for a specific geologic sequestration phase (e.g., well plugging), such combination must be limited to instruments that are not based on financial strength or performance (i.e., self insurance or performance bond), for example trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, escrow account, and insurance. In this case, it is the combination of mechanisms, rather than the single mechanism, that must provide financial responsibility for an amount at least equal to the current cost estimate.

B) When using a third-party instrument to demonstrate financial responsibility, the owner or operator must provide a proof that the third-party provider fulfills either of the following:

i) The provider must have passed financial strength requirements of subsection (b)(6)(E) ~~of this Section~~ based on credit ratings; or

ii) The provider must have met a minimum rating, minimum capitalization, and have the ability to pass the bond rating set forth in subsection (b)(6)(E) ~~of this Section~~, when applicable.

C) An owner or operator using certain types of third-party instruments must establish a standby trust fund to enable the Agency to be party to the financial responsibility agreement without the Agency being the beneficiary of any funds. The standby trust fund must be used along with other financial responsibility instruments (e.g., surety bonds, letters of credit, or escrow accounts) to provide a location to place funds if needed.

D) An owner or operator may deposit money to an escrow account to cover financial responsibility requirements. This account must segregate funds sufficient to cover estimated costs for Class VI (geologic sequestration) financial responsibility from other accounts and uses.

E) An owner or operator or its guarantor may use self insurance to demonstrate financial responsibility for geologic sequestration projects if the owner or operator or its guarantor fulfill the following requirements:

i) The owner or operator or its guarantor must meet a tangible net worth of an amount approved by the Agency;

ii) The owner or operator or its guarantor must have a net working capital and tangible net worth each at least six times the sum of the current well plugging, post-injection site care, and site closure cost;

iii) The owner or operator or its guarantor must have assets located in the United States amounting to at least 90

percent of total assets or at least six times the sum of the current well plugging, post injection site care, and site closure cost;

iv) The owner or operator or its guarantor must submit a report of its bond rating and financial information annually; and

v) The owner or operator or its guarantor must either have a bond rating test of AAA, AA, A, or BBB, as issued by Standard & Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's, or meet all of the following five financial ratio thresholds: a ratio of total liabilities to net worth less than 2.0; a ratio of current assets to current liabilities greater than 1.5; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; a ratio of current assets minus current liabilities to total assets greater than -0.1; and a net profit (revenues minus expenses) greater than 0.

F) An owner or operator that is not able to meet the corporate financial test criteria of subsection (a)(6)(E) ~~of this Section~~ may arrange a corporate guarantee by demonstrating that its corporate parent meets the financial test requirements on its behalf. The corporate parent's demonstration that it meets the financial test requirement is insufficient if it has not also guaranteed to fulfill the obligations for the owner or operator.

G) An owner or operator may obtain an insurance policy to cover the estimated costs of geologic sequestration activities that require financial responsibility. This insurance policy must be obtained from a third-party provider.

b) The requirement to maintain adequate financial responsibility and resources is directly enforceable regardless of whether the requirement is a condition of the permit.

1) The owner or operator must maintain financial responsibility and resources until both of the following events have occurred:

A) The Agency has received and approved the completed post-injection site care and site closure plan; and

B) The Agency has approved site closure.

2) The owner or operator may be released from a financial instrument in the following circumstances:

A) The owner or operator has completed the phase of the geologic sequestration project for which the financial instrument was required, and the owner or operator has fulfilled all of its financial obligations, as determined by the Agency, including obtaining financial responsibility for the next phase of the geologic sequestration project, if required; or

B) The owner or operator has submitted a replacement financial instrument, and the owner or operator has received written approval from the Agency that accepts the new financial instrument and which releases the owner or operator from the previous financial assurance instrument.

c) The owner or operator must have a detailed written estimate, in current dollars, of the cost of performing corrective action on wells in the area of review, plugging the injection wells, post-injection site care, site closure, and emergency and remedial response.

1) The cost estimate must be performed for each phase separately, and the cost estimate must be based on the costs to the Agency of hiring a third party to perform the required activities. A third party is a party who is not within the corporate structure of the owner or operator.

2) During the active life of the geologic sequestration project, the owner or operator must adjust the cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with subsection (a) ~~of this Section~~, and the owner or operator must provide this adjustment to the Agency. The owner or operator must also provide to the Agency written updates of adjustments to the cost estimate within 60 days after any amendments to the area of review and corrective action plan (Section 730.184), the injection well plugging plan (Section 730.192), the post-injection site care and site closure plan (Section 730.193), and the emergency and remedial response plan (Section 730.194).

3) The Agency must approve any decrease or increase to the initial cost estimate. During the active life of the geologic sequestration project, the

owner or operator must revise the cost estimate no later than 60 days after any of the following events has occurred: the Agency has approved the request to modify the area of review and corrective action plan (Section 730.184), the Agency has approved the injection well plugging plan (Section 730.192), the Agency has approved the post-injection site care and site closure plan (Section 730.193), or the Agency has approved the emergency and response plan (Section 730.194), if the change in the plan increases the cost. If the change to the plan decreases the cost, any withdrawal of funds must be approved by the Agency. Any decrease to the value of the financial assurance instrument must first be approved by the Agency. The revised cost estimate must be adjusted for inflation as specified at subsection (c)(2) ~~of this Section~~.

4) Within 60 days after an increase in the current cost estimate to an amount greater than the face amount of a financial instrument currently in use, the owner or operator must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency, or obtain other financial responsibility instruments to cover the increase. Whenever the current cost estimate decreases, the owner or operator may reduce the face amount of the financial assurance instrument to the amount of the current cost estimate only in accordance with a written approval from the Agency.

d) The owner or operator must notify the Agency by certified mail of adverse financial conditions, such as bankruptcy, that may affect the ability to carry out injection well plugging and post-injection site care and site closure.

1) In the event that the owner or operator or the third-party provider of a financial responsibility instrument is going through a bankruptcy, the owner or operator must notify the Agency of the proceeding by certified mail within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 of the United States Code that names the owner or operator as debtor.

2) The guarantor of a corporate guarantee must make the notification to the Agency required by this subsection (d)(2) if the guarantor is named as debtor, as required under the terms of the corporate guarantee.

3) An owner or operator who fulfills the requirements of subsection (a) ~~of this Section~~ by obtaining a trust fund, surety bond, letter of credit, escrow account, or insurance policy will be deemed to be without the required financial assurance 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 of the institution issuing the pertinent financial assurance instrument. The owner or operator must establish other financial assurance within 60 days after such an event.

e) The owner or operator must provide an adjustment of the cost estimate to the Agency within 60 days after notification of an Agency determination during the annual evaluation of the qualifying financial responsibility instruments that the most recent demonstration is no longer adequate to cover the cost of corrective action (as required by Section 730.184), injection well plugging (as required by Section 730.192), post-injection site care and site closure (as required by Section 730.193), and emergency and remedial response (as required by Section 730.194).

f) The Agency must approve the use and length of pay-in-periods for trust funds or escrow accounts.

BOARD NOTE: This Section corresponds with 40 CFR 146.85 (2017) ~~(2011)~~.

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

Section 730.188 Injection Well Operating Requirements

a) Except during injection well stimulation, the owner or operator must ensure that injection pressure does not exceed 90 percent of the fracture pressure of the injection zones, so as to ensure that the injection does not initiate new fractures or propagate existing fractures in the injection zones. In no case may injection pressure initiate fractures in the confining zones or cause the movement of injection or formation fluids that endangers a USDW. Pursuant to the requirements of Section 730.182(a)(9), all stimulation programs must be approved by the Agency as part of the permit application and incorporated into the permit.

b) Injection between the outermost casing that protects any USDW and the well bore is prohibited.

c) The owner or operator must fill the annulus between the tubing and the long-string casing with a non-corrosive fluid approved by the Agency. The owner or operator must maintain on the annulus a pressure that exceeds the operating injection pressure, unless the Agency determines that such a requirement might harm the integrity of the well or endanger any USDW.

d) Other than during periods of well workover (maintenance) approved by the Agency in which the sealed tubing-casing annulus is disassembled for

maintenance or corrective procedures, the owner or operator must maintain mechanical integrity of the injection well at all times.

e) The owner or operator must install and use the equipment indicated in subsection (e)(1) ~~of this Section~~ and the appropriate of subsection (e)(2) or (e)(3) ~~of this Section~~:

1) Continuous recording devices that monitor each of the following parameters:

A) The carbon dioxide injection pressure;

B) The rate, volume or mass, and temperature of the carbon dioxide stream;

C) The pressure on the annulus between the tubing and the long-string casing; and

D) The annulus fluid volume.

2) For onshore wells, alarms and automatic surface shut-off systems or, at the discretion of the Agency, down-hole shut-off systems (e.g., automatic shut-off valves, check valves, etc.) or other mechanical devices that provide equivalent protection.

3) For wells located offshore but within State territorial waters, alarms and automatic down-hole shut-off systems designed to alert the operator and shut-in the well when operating parameters, such as annulus pressure, injection rate, or other parameters, diverge beyond permitted ranges or gradients specified in the permit.

f) If a shutdown is triggered (down-hole or at the surface), or if a loss of mechanical integrity is discovered, the owner or operator must immediately investigate and identify the cause of the shutoff as expeditiously as possible. If, upon investigation, or if monitoring required under subsection (e) ~~of this Section~~ otherwise indicates that the well may be lacking mechanical integrity, the well appears to be lacking mechanical integrity, the owner or operator must undertake each of the following actions:

1) The owner or operator must immediately cease injection;

2) The owner or operator must take all steps reasonably necessary to determine whether there may have been a release of the injected carbon dioxide stream or formation fluids into any unauthorized zone;

3) The owner or operator must notify the Agency of the event within 24 hours;

4) The owner or operator must restore and demonstrate the mechanical integrity of the well to the satisfaction of the Agency prior to resuming injection; and

5) The owner or operator must notify the Agency when injection can be expected to resume.

BOARD NOTE: This Section corresponds with 40 CFR 146.88 (2017) ~~(2011)~~.

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

Section 730.189 Mechanical Integrity

a) A Class VI injection well has mechanical integrity if both of the following conditions exist:

1) There is no significant leak in the casing, tubing, or packer; and

2) There is no significant fluid movement into a USDW through channels adjacent to the injection well bore.

b) To evaluate the absence of significant leaks under subsection (a)(1) ~~of this Section~~, the owner or operator must, following an initial annulus pressure test, continuously monitor each of the following parameters:

1) The injection pressure, rate, and injected volumes;

2) The pressure on the annulus between the tubing and the long-string casing; and

3) The annulus fluid volume, as specified in Section 730.188 (e);

c) At least once per year, the owner or operator must use one of the following methods to determine the absence of significant fluid movement under subsection (a)(2) ~~of this Section~~:

1) An approved tracer survey, such as an oxygen-activation log; or

2) A temperature or noise log.

d) If required by the Agency, at a frequency specified in the testing and monitoring plan required by Section 730.190, the owner or operator must run a casing inspection log to determine the presence or absence of corrosion in the long-string casing.

e) The Agency must require any requested alternative test that the Agency has determined is necessary to evaluate mechanical integrity under subsections (a)(1) or (a)(2) ~~of this Section~~ after obtaining the written approval of USEPA.

BOARD NOTE: Corresponding 40 CFR 146.89(e) provides that the Agency must submit a written request to USEPA setting forth the proposed test and all technical data supporting its use to obtain approval for a new mechanical integrity test. USEPA stated that it will approve the request if USEPA determines that the proposed test will reliably demonstrate the mechanical integrity of wells for which its use was proposed. USEPA stated that it will publish any alternative method that USEPA has approved in the Federal Register, and the Agency must approve use of the published method if the Agency has determined that the method is appropriate to evaluate mechanical integrity, unless USEPA restricts its use at the time of approval by USEPA.

f) In conducting and evaluating the tests enumerated in this Section or others that the Agency has required by permit, the owner or operator and the Agency must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, the owner or operator must include a description of the tests and the methods used. In making its evaluation, the Agency must review monitoring and other test data submitted since the previous evaluation.

g) The Agency must require additional or alternative tests if the Agency determines that the results presented by the owner or operator pursuant to subsections (a) through (d) ~~of this Section~~ are not satisfactory to demonstrate that there is no significant leak in the casing, tubing, or packer or that there is no significant movement of fluid into a USDW resulting from the injection activity, as required by subsections (a)(1) and (a)(2) ~~of this Section~~.

BOARD NOTE: This Section corresponds with 40 CFR 146.89 (2017) ~~(2011)~~.

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

Section 730.190 Testing and Monitoring Requirements

The owner or operator of a Class VI injection well must prepare, maintain, and comply with a testing and monitoring plan which will verify that the geologic sequestration project is operating as permitted, and that the project is not endangering USDWs. The requirement to maintain and implement an approved testing and monitoring plan is directly enforceable, regardless of whether the requirement is a condition of the permit. The owner or operator must submit the testing and monitoring plan to the Agency with the permit application, and the owner or operator must include a description of how it will meet the requirements of this Section, including accessing sites for all necessary monitoring and testing during the life of the project. Testing and monitoring associated with geologic sequestration projects must, at a minimum, include the following parameters and devices:

a) Analyses of the carbon dioxide stream with sufficient frequency to yield data representative of the chemical and physical characteristics of the stream;

b) Installation and use of continuous recording devices to monitor injection pressure, rate, and volume, except during well workovers, as such are defined in Section 730.188(d); the pressure on the annulus between the tubing and the long-string casing; and the annulus fluid volume added;

c) Corrosion monitoring of the well materials for loss of mass, thickness, cracking, pitting, and other signs of corrosion, which must be performed on a quarterly basis to ensure that the well components fulfill the Agency-approved minimum standards for material strength and performance, as provided in Section 730.186(b), by performing one of the following tests:

    1) Analyzing coupons of the well construction materials placed in contact with the carbon dioxide stream;

    2) Routing the carbon dioxide stream through a loop constructed with the material used in the well and inspecting the materials in the loop; or

    3) Using an alternative method approved by the Agency;

d) Periodic monitoring of the groundwater quality and geochemical changes above the confining zones that may be a result of carbon dioxide movement through the confining zones or additional identified zones, including the following information:

    1) The location and number of monitoring wells based on specific information about the geologic sequestration project, including injection

rate and volume, geology, the presence of artificial penetrations, and other factors; and

2) The monitoring frequency and spatial distribution of monitoring wells based on baseline geochemical data that has been collected pursuant to Section 730.182(a)(6) and on any modeling results in the area of review evaluation required by Section 730.184(c).

e) The annual demonstration of external mechanical integrity required by Section 730.189(c) at least once per year until the injection well is plugged; and, if required by the Agency, a casing inspection log undertaken pursuant to Section 730.189(d), at a frequency established in the testing and monitoring plan;

f) A pressure fall-off test at least once every five years, unless the Agency has required more frequent testing based on site-specific information;

g) Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using the following types of methods:

1) Direct methods in the injection zones; and

2) Indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools), unless the Agency has determined, based on site-specific geology, that these methods are not appropriate;

h) The Agency must require surface air monitoring or soil gas monitoring if the Agency determines that this monitoring is needed to detect movement of carbon dioxide that could endanger a USDW.

1) The design of Class VI injection well surface air or soil gas monitoring must be based on potential risks to USDWs within the area of review;

2) The monitoring frequency and spatial distribution of surface air monitoring or soil gas monitoring must be decided using baseline data, and the monitoring plan must describe how the proposed monitoring will yield useful information on the area of review delineation or compliance with the prohibition against movement of fluid into a USDW set forth in 35 Ill. Adm. Code 704.122;

3) If the Agency requires surface air or soil gas monitoring, the Agency has determined that monitoring undertaken to comply with subpart RR of 40 CFR 98 accomplishes the goals of subsections (h)(1) and (h)(2) ~~of this Section~~, and the owner or operator fulfills the carbon dioxide release reporting requirements set forth in Section 730.191(c)(5), the Agency must approve the use of monitoring undertaken to comply with subpart RR of 40 CFR 98. After approval by the Agency, compliance with subpart RR of 40 CFR 98 pursuant to this subsection (h)(3) is deemed a condition of the Class VI injection well permit;

i) Any additional monitoring that the Agency has determined is necessary to support, upgrade, and improve the computational modeling of the area of review evaluation that is required by Section 730.184(c) and to determine compliance with the prohibition against movement of fluid into a USDW set forth in 35 Ill. Adm. Code 704.122;

j) The owner or operator must periodically review the testing and monitoring plan to incorporate monitoring data collected under this Subpart H, operational data collected pursuant to Section 730.188, and the most recent area of review reevaluation performed pursuant to Section 730.184(e). The owner or operator must review the testing and monitoring plan at least once in every five-year period. Based on this review, the owner or operator must submit an amended testing and monitoring plan or demonstrate to the Agency that no amendment to the testing and monitoring plan is needed. Any amendments to the testing and monitoring plan must be approved by the Agency, must be incorporated into the permit, and are subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.261 or 704.264, as appropriate. The owner or operator must submit amended plans or demonstrations to the Agency as follows:

1) Within one year after an area of review reevaluation;

2) Following any significant changes to the facility, such as addition of monitoring wells or newly permitted injection wells within the area of review, on a schedule determined by the Agency; or

3) When required by the Agency.

k) A quality assurance and surveillance plan for all testing and monitoring requirements.

BOARD NOTE: This Section corresponds with 40 CFR 146.90 (2017) ~~(2011)~~.

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

Section 730.191 Reporting Requirements

The owner or operator of a Class VI injection well must, at a minimum, provide the following reports to the Agency for each permitted Class VI injection well, as specified in subsection (e) ~~of this Section~~:

a) Semi-annual reports containing the following information:

1) A description of any deviations in the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data submitted to the Agency pursuant to Sections 730.182(a)(7) and (c)(3) and 730.186(b)(1) and (c)(3);

2) The monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure;

3) A description of any event that exceeds operating parameters for the annulus pressure or injection pressure specified in the permit;

4) A description of any event that triggers a shut-off device required pursuant to Section 730.188(e) and the response undertaken by the owner or operator;

5) The monthly volume or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project;

6) The monthly annulus fluid volume added; and

7) The results of the monitoring required by Section 730.190.

b) Report the results within 30 days after completion of any of the following:

1) Any results of periodic tests of mechanical integrity;

2) Any well workover; and

3) Results of any other test of the injection well that the owner or operator has conducted as required by the Agency.

c) Report any of the following events within 24 hours after the event:

1) The owner or operator has discovered any evidence that the injected carbon dioxide stream or associated pressure front may cause an endangerment to a USDW;

2) The owner or operator has discovered any noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between USDWs;

3) The owner or operator has discovered any triggering of a shut-off system (*i.e.,* down-hole or at the surface);

4) The owner or operator has discovered any failure to maintain mechanical integrity; or

5) The owner or operator has discovered any release of carbon dioxide to the atmosphere or biosphere through surface air or soil gas monitoring or other monitoring technologies that the Agency has required pursuant to Section 730.190(h).

d) An owner or operator must notify the Agency in writing 30 days in advance of any of the following:

1) Any planned well workover;

2) Any planned stimulation activities, other than stimulation for formation testing conducted pursuant to Section 730.182; and

3) Any other planned test of the injection well conducted by the owner or operator.

e) In corresponding 40 CFR 146.91(e), USEPA has stated that owners or operators must submit all required reports, submittals, and notifications under this Subpart H to USEPA in an electronic format approved by USEPA.

f) The owner or operator must retain records as follows:

1) The owner or operator must retain all data collected pursuant to Section 730.182 for Class VI permit applications throughout the life of the geologic sequestration project and for 10 years following site closure.

2) The owner or operator must retain data on the nature and composition of all injected fluids collected pursuant to Section 730.190(a) until 10 years

after site closure. The Agency may require the owner or operator to deliver the records to the Agency at the conclusion of the retention period.

3) The owner or operator must retain monitoring data collected pursuant to Section 730.190(b) through (i) for 10 years after it is collected.

4) The owner or operator must retain well plugging reports, post-injection site care data, including, if appropriate, data and information used to develop the demonstration of the alternative post-injection site care timeframe, and the site closure report collected pursuant to requirements at Section 730.193(f) and (h) for 10 years following site closure.

5) The Agency may require the owner or operator to retain any records required by this Subpart H for a period that is longer than 10 years after site closure. Any Agency requirement that the owner or operator retain records for a longer period must be made in writing, the writing must recite a definite longer period, and the Agency must state the reasons for the determination to require the longer period. An owner or operator may appeal any Agency determination made pursuant to this subsection (f)(5) to the Board pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~.

BOARD NOTE: This Section corresponds with 40 CFR 146.91 (2017) ~~(2011)~~.

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

Section 730.193 Post-Injection Site Care and Site Closure

a) The owner or operator of a Class VI injection well must prepare, maintain, and comply with a plan for post-injection site care and site closure that the Agency has determined meets the requirements of subsection (a)(2) ~~of this Section~~. The requirement to maintain and implement an approved plan is directly enforceable, regardless of whether the requirement is a condition of the permit.

1) The owner or operator must submit the post-injection site care and site closure plan to the Agency as a part of the permit application.

2) The post-injection site care and site closure plan must include the following information:

A) The pressure differential between pre-injection and predicted post-injection pressures in the injection zones;

B) The predicted position of the carbon dioxide plume and associated pressure front at site closure, as demonstrated in the area of review evaluation required by Section 730.184(c)(1);

C) A description of the proposed post-injection monitoring location, methods, and frequency;

D) A proposed schedule for submitting post-injection site care monitoring results to the Agency pursuant to Section 730.191(e); and

E) The duration of the post-injection site care timeframe and, if approved by the Agency, the demonstration of the alternative post-injection site care timeframe that ensures non-endangerment of USDWs.

3) Upon cessation of injection, the owner or operator of a Class VI injection well must either submit an amended post-injection site care and site closure plan or demonstrate to the Agency through monitoring data and modeling results that no amendment to the plan is needed. The Agency must approve any amendments to the post-injection site care and site closure plan and incorporate the amendments into the permit, and the incorporation of the amendments into the permit is subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate.

4) At any time during the life of the geologic sequestration project, the owner or operator may modify and resubmit the post-injection site care and site closure plan for Agency approval. The owner or operator must resubmit the plan to the Agency within 30 days after making any modification.

b) The owner or operator must monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that no USDW is being endangered.

1) Following the cessation of injection, the owner or operator must continue to conduct monitoring as specified in the Agency-approved post-injection site care and site closure plan for at least 50 years or for the duration of the alternative timeframe approved by the Agency pursuant to requirements in subsection (c)~~ of this Section~~, unless the owner or operator makes a demonstration under subsection (b)(2)~~ of this Section~~. The monitoring must continue until the geologic sequestration project no longer poses an

endangerment to USDWs and the demonstration under subsection (b)(2) ~~of this Section~~ is submitted and approved by the Agency.

2) If the Agency determines, based on monitoring and other site-specific data, that the geologic sequestration project no longer poses an endangerment to any USDW before 50 years or prior to the end of the approved alternative timeframe, the Agency must either approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or authorize site closure before the end of the 50-year period or prior to the end of the approved alternative timeframe.

3) Prior to authorization for site closure, the owner or operator must submit to the Agency for review and approval a demonstration, based on monitoring and other site-specific data, that no additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to any USDW.

4) If the owner or operator cannot make the demonstration required by subsection (b)(3) ~~of this Section~~ (i.e., the Agency has determined that additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to any USDW or the Agency has not approved the demonstration) at the end of the 50-year period or at the end of the approved alternative timeframe, the owner or operator must submit to the Agency a plan to continue post-injection site care until the owner or operator has made a demonstration that the Agency can approve.

c) Demonstration of alternative post-injection site care timeframe. If the Agency determines in consultation with USEPA during the permitting process that an alternative post-injection site care timeframe other than the 50-year default is appropriate and ensures non-endangerment of any USDW, the Agency must approve the alternative post-injection site care timeframe. The Agency must base its determination on significant, site-specific data and information, including all data and information collected pursuant to Sections 730.182 and 730.183, and the Agency must determine based on substantial evidence that the geologic sequestration project will no longer pose a risk of endangerment to any USDW at the end of the alternative post-injection site care timeframe.

1) A demonstration of an alternative post-injection site care timeframe must include consideration and documentation of the following:

A) The results of computational modeling performed pursuant to delineation of the area of review, as required by Section 730.184;

B) The predicted timeframe for pressure decline within the injection zone and any other zones, such that formation fluids may not be forced into any USDW, or the timeframe for pressure decline to pre-injection pressures;

C) The predicted rate of carbon dioxide plume migration within the injection zone and the predicted timeframe for the cessation of migration;

D) A description of the site-specific processes that will result in carbon dioxide trapping, including immobilization by capillary trapping, dissolution, and mineralization at the site;

E) The predicted rate of carbon dioxide trapping in the immobile capillary phase, dissolved phase, and mineral phase;

F) The results of laboratory analyses, research studies, or field or site-specific studies to verify the information required in subsections (c)(1)(D) and (c)(1)(E) ~~of this Section~~;

G) A characterization of the confining zones, including a demonstration that each confining zone is free of transmissive faults, fractures, and micro-fractures and is of appropriate thickness, permeability, and integrity to impede fluid movement (e.g., carbon dioxide, formation fluids, etc.);

H) The presence of potential conduits for fluid movement, including planned injection wells and project monitoring wells associated with the proposed geologic sequestration project or any other projects in proximity to the predicted or modeled final extent of the carbon dioxide plume and area of elevated pressure;

I) A description of the well construction and an assessment of the quality of plugs of all abandoned wells within the area of review;

J) The distance between the injection zone and the nearest USDWs above and below the injection zone; and

K) Any additional site-specific factors required by the Agency.

2) Information submitted to support the demonstration required by subsection (c)(1) ~~of this Section~~ must meet the following criteria:

A) All analyses and tests performed to support the demonstration must be accurate and reproducible, and they must have been performed in accordance with the established quality assurance standards;

B) Estimation techniques must be appropriate, and USEPA-certified test protocols must have been used where available;

C) Predictive models must be appropriate and tailored to the site conditions, composition of the carbon dioxide stream, and injection and site conditions over the life of the geologic sequestration project;

D) Predictive models must be calibrated using existing information (e.g., at Class I, Class II, or Class V experimental technology injection well sites) where sufficient data are available;

E) Reasonably conservative values and modeling assumptions must be used and disclosed to the Agency whenever values are estimated on the basis of known historical information instead of site-specific measurements;

F) The owner or operator must perform an analysis to identify and assess aspects of the alternative post-injection site care timeframe demonstration that contribute significantly to uncertainty. The owner or operator must conduct sensitivity analyses to determine the effect that significant uncertainty may contribute to the modeling demonstration.

G) An approved quality assurance and quality control plan must address all aspects of the demonstration; and

H) Any additional criteria required by the Agency.

d) Notice of intent for site closure. The owner or operator must notify the Agency in writing at least 120 days before site closure. At the time of this notice, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. The Agency may allow for a shorter notice period. The Agency must allow for a shorter notice period if the Agency determines that the shorter notice period is adequate to complete Agency review of the post-injection site care and site closure plan or that well closure must occur more promptly.

e) After the Agency has authorized site closure, the owner or operator must plug all monitoring wells in a manner that will not allow movement of injection or formation fluids which endangers a USDW.

f) The owner or operator must submit a site closure report to the Agency within 90 days after site closure, which must thereafter be retained at a location designated by the Agency for at least 10 years. The report must include the following records and documentation:

1) Documentation of the injection and monitoring well plugging as required by Section 730.192 and subsection (e) ~~of this Section~~. The owner or operator must provide a copy of a survey plat that the owner or operator has submitted to the local zoning authority designated by the Agency. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to USEPA Region 5;

2) Documentation of appropriate notification and information to all State and local authorities that have authority over drilling activities within the area of review, to enable those State and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zones; and

BOARD NOTE: The Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division and the Illinois Department of Public Health each have some role in regulating well drilling, depending on the type of well. Other State agencies may also have a role. Further, units of local government and agencies of a sister state may regulate well drilling if a portion of the area of review lies within their jurisdiction. The owner or operator must assure that all applicable regulatory entities receive the required notification and information.

3) Records reflecting the nature, composition, and volume of the carbon dioxide stream.

g) Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined during title search that will in perpetuity provide the following information to any potential purchaser of the property:

1) The fact that land has been used to sequester carbon dioxide;

2) The name of the county with which the survey plat was filed, as well as the addresses of the Agency and USEPA Region 5; and

3) The volume of fluid injected, the injection zone or zones into which the fluid was injected, and the period over which injection occurred.

h) The owner or operator must retain records collected during the post-injection site care period for at least 10 years following site closure. The owner or operator must deliver the records to the Agency at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Agency for that purpose.

BOARD NOTE: This Section corresponds with 40 CFR 146.93 (2017) ~~(2011)~~.

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

Section 730.194 Emergency and Remedial Response

a) As part of the permit application, the owner or operator must provide the Agency with an emergency and remedial response plan that describes actions the owner or operator must take to address movement of the injection or formation fluids which may cause an endangerment to a USDW during the construction, operation, and post-injection site care periods of the injection well. The requirement to maintain and implement an approved emergency and remedial response plan is directly enforceable regardless of whether the requirement is a condition of the permit.

b) If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must undertake the following actions:

1) The owner or operator must immediately cease injection;

2) The owner or operator must take all steps reasonably necessary to identify and characterize any release;

3) The owner or operator must notify the Agency within 24 hours after obtaining the evidence; and

4) The owner or operator must implement the emergency and remedial response plan approved by the Agency.

c) The Agency must allow the operator to resume injection prior to remediation if the Agency has determined that the injection operation will not endanger any USDW.

d) The owner or operator must periodically review the emergency and remedial response plan developed pursuant to subsection (a) ~~of this Section~~. The owner or operator must review the emergency and remedial response plan at least once in every five year period. Based on this review, the owner or operator must submit an amended emergency and remedial response plan or demonstrate to the Agency that no amendment to the emergency and remedial response plan is needed. The Agency must approve any amendments to the emergency and remedial response plan and incorporate the amendments into the permit, and the incorporation of the amendments into the permit is subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate. The owner or operator must submit any amended plans or demonstrations to the Agency as follows:

1) Within one year of an area of review reevaluation;

2) Following any significant changes to the facility, such as addition of injection or monitoring wells, on a schedule determined by the Agency; or

3) When required by the Agency.

BOARD NOTE: This Section corresponds with 40 CFR 146.94 (2017) ~~(2011)~~.

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

Section 730.195 Alternative Class VI Injection Well Depth Requirements

This Section specifies the requirements for application of alternative injection well depth requirements for Class VI injection wells that meet certain criteria. This Section sets forth information that an owner or operator seeking application of alternative Class VI injection well depth requirements must submit to the Agency; the information that the Agency must consider when determining whether any well is suitable for application of alternative injection well depth requirements; the procedure for Agency-USEPA Region 5 communication and Agency determination whether a well is suitable for application of alternative injection well depth requirements; and the additional requirements that apply to an owner or operator of a Class VI injection well that has been granted a permit that includes alternative injection well depth requirements.

a) When seeking a permit that includes alternative injection well depth requirements to the requirement to inject below the lowermost USDW, the owner or operator must submit a supplemental report concurrent with the permit application. The supplemental report must include the following information:

1) The following demonstrations with regard to the injection zones:

A) Each is laterally continuous;

B) None is a USDW;

C) None is hydraulically connected to a USDW;

D) None outcrops;

E) Each has adequate injectivity, volume, and sufficient porosity to safely contain the injected carbon dioxide and formation fluids; and

F) Each has appropriate geochemistry.

2) A demonstration that each injection zone is bounded by laterally continuous impermeable confining units above and below the injection zone that are adequate to prevent fluid movement and pressure buildup outside of the injection zone and that the confining units are free of transmissive faults and fractures. The report must further characterize the regional fracture properties and contain a demonstration that these fractures will not interfere with injection, serve as conduits, or endanger USDWs.

3) A demonstration, using computational modeling, that no fluid movement will endanger any USDW above or below the injection zone. This modeling should be conducted in conjunction with the area of review determination required by Section 730.184, and the modeling is subject to the area of review delineation and well identification requirements set forth in Section 730.184(c) and the periodic reevaluation requirements set forth in Section 730.184(e).

4) The following demonstrations with regard to well design and construction, in conjunction with the alternative injection well depth requirements:

A) Well design and construction will ensure isolation of the injectate in lieu of the prohibition against movement of fluids set forth in 730.186(a)(1); and

B) Well design and construction will meet the well construction requirements set forth in subsection (f) ~~of this Section~~.

5) A description of how the owner or operator will tailor the monitoring and testing and any additional plans to the geologic sequestration project to ensure protection of USDWs above and below each injection zone if the Agency issues a permit that includes alternative injection well depth requirements.

6) Information on the location of all the public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review.

7) Any other information that the Agency determines is necessary to inform the USEPA Region 5's decision to issue a waiver, as required by subsection (b) ~~of this Section~~.

b) To inform the USEPA Region 5's decision on whether to grant a waiver of the injection depth requirements pursuant to 40 CFR 146.95, which would allow the Agency to issue a permit that includes alternative injection well depth requirements, the Agency must submit the following documentation to USEPA Region 5:

1) An evaluation of the following information as it relates to siting, construction, and operation of a geologic sequestration project under a permit that includes alternative injection well depth requirements:

A) The integrity of the upper and lower confining units;

B) The suitability of the injection zones (e.g., lateral continuity, lack of transmissive faults and fractures, known current or planned artificial penetrations into the injection zones or formations below the injection zone, etc.);

C) The potential capacity of the geologic formations to sequester carbon dioxide, accounting for the availability of alternative injection sites;

D) All other site characterization data, the proposed emergency and remedial response plan, and a demonstration of financial responsibility;

E) An assessment of community needs, demands, and supply from drinking water resources;

F) An assessment of planned needs and potential or future use of USDWs and non-USDWs in the area of review;

G) An assessment of planned or permitted water, hydrocarbon, or mineral resource exploitation potential of the proposed injection formations and other formations both above and below the injection zone to determine if there are any plans to drill through the formation to access resources in or beneath the proposed injection zones or formations;

H) The proposed plan for securing alternative water resources or treating USDW formation waters in the event of contamination related to the Class VI injection well activity; and,

I) Any other applicable considerations or information that the Agency determines is necessary to aid a determination by USEPA Region 5 to grant a waiver that would allow the Agency to issue a permit that includes alternative injection well depth requirements.

2) Consultation with the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority over lands within the area of review of a well for which a waiver that would allow the Agency to issue a permit that includes alternative injection well depth requirements is sought.

3) Any written waiver-related information submitted by the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority to the Agency.

c) Pursuant to 35 Ill. Adm. Code 705.163 and concurrent with the Class VI injection well permit application notice process, the Agency must give public notice that the owner or operator has sought a permit that includes alternative injection well depth requirements. The notice must clearly state the following information:

1) The depth of the proposed injection zones;

2) The location of the injection wells;

3) The name and depth of each USDW within the area of review;

4) A map of the area of review;

5) The names of any public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review; and

6) The results of consultation with the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority, as required by subsection (b)(2) ~~of this Section~~.

d) Following the public notice required by subsection (c) ~~of this Section~~, the Agency must provide all information received through the waiver application process to USEPA Region 5. USEPA has stated in corresponding 40 CFR 146.95(d) that, based on this information, the USEPA Region 5 must provide written concurrence or non-concurrence regarding the Agency issuing a permit that includes alternative injection well depth requirements.

1) If USEPA Region 5 determines that additional information is required to support a decision, the Agency must provide that information. At its discretion, USEPA Region 5 may require that public notice of the new information be initiated.

2) The Agency must not issue a permit that includes alternative injection well depth requirements without having first received the written concurrence of USEPA Region 5.

e) USEPA has stated in corresponding 40 CFR 146.95(e) that if the Agency issues a permit that includes alternative injection well depth requirements, USEPA will post the following information on its Office of Water website within 30 days after permit issuance:

1) The depth of the proposed injection zones;

2) The location of the injection wells;

3) The name and depth of all USDWs within the area of review;

4) A map of the area of review;

5) The names of any public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review; and

6) The date of permit issuance.

f) Upon receipt of a permit that includes alternative injection well depth requirements for geologic sequestration, the owner or operator of the covered Class VI injection well must comply with the following requirements:

1) All requirements of Sections 730.184, 730.185, 730.187, 730.188, 730.189, 730.191, 730.192, and 730.194;

2) All requirements of Section 730.186, with the following modified requirements:

A) The owner or operator must ensure that each Class VI injection well operating under the alternative injection well depth requirements is constructed and completed to prevent movement of fluids into any unauthorized zone that includes a USDW, in lieu of the requirements of Section 730.186(a)(1).

B) The casing and cementing program must be designed to prevent the movement of fluids into any unauthorized zone that includes a USDW in lieu of the requirements of Section 730.186(b)(1).

C) The surface casing must extend through the base of the nearest USDW directly above the injection zone. The surface casing must be cemented to the surface. Alternatively, the Agency must require that the casing extend through another formation above the injection zone and below the nearest USDW above the injection zone if the Agency determines that doing so is necessary to prevent movement of fluids into a USDW.

3) All requirements of Section 730.190, with the following modified requirements:

A) The owner or operator must monitor the groundwater quality, geochemical changes, and pressure in the first USDWs

immediately above and below each injection zone; and in any other formation that the Agency determines is necessary to detect potential movement of fluids into a USDW.

B) The owner or operator must conduct testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using direct methods to monitor for pressure changes in the injection zones. The owner or operator must use indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools) that the Agency determines are necessary based on site-specific geology.

4) All requirements of Section 730.193, with the following, modified post-injection site care monitoring requirements:

A) The owner or operator must monitor the groundwater quality, geochemical changes, and pressure in the first USDWs immediately above and below each injection zone; and in any other formation that the Agency determines is necessary to detect potential movement of fluids into a USDW.

B) The owner or operator must conduct testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using direct methods in the injection zones. The owner or operator must use indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools) that the Agency determines are necessary to detect potential movement of fluids into a USDW;

5) Any additional requirements that the Agency determines are necessary to ensure protection of USDWs above and below the injection zones.

BOARD NOTE: This Section corresponds with 40 CFR 146.95 (2017) ~~(2011)~~. The corresponding federal rule calls the administrative permission to allow a well to inject at an alternative depth (i.e., above the lowermost USDW) a "waiver~~.~~". While the Board has retained the use of "waiver" with regard to USEPA review of alternative depth requirements, the Board has changed this to some variant of "permit that includes alternative injection well depth requirements~~.~~". While the Agency cannot "waive" standards embodied in Board regulations, the Agency can issue a permit that applies alternative standards that are contained in the regulations. The Board believes that this rule includes standards sufficient to guide an Agency permit determination.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Standards for Universal Waste Management

2) Code Citation: 35 Ill. Adm. Code 733

3)

Section Numbers:	Proposed Actions:
733.101	Amendment
733.102	Amendment
733.103	Amendment
733.105	Amendment
733.108	Amendment
733.113	Amendment
733.114	Amendment
733.115	Amendment
733.118	Amendment
733.120	Amendment
733.133	Amendment
733.134	Amendment
733.135	Amendment
733.138	Amendment
733.139	Amendment
733.140	Amendment
733.151	Amendment
733.152	Amendment
733.153	Amendment
733.156	Amendment
733.161	Amendment
733.162	Amendment
733.170	Amendment
733.180	Amendment
733.181	Amendment

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

5) A complete description of the subjects and issues involved: The amendments to Part 733 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 738, 739, and 810 through 812, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 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 702. A comprehensive description is contained in

the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 733 incorporate elements of the Generator Improvements Rule and the Hazardous Waste Import-Export Revisions. The Board makes several needed corrections in the text of the rules.

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

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

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 733
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

SUBPART A: GENERAL

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

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 R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-8 at 29 Ill. Reg. 6058, effective April 13, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1352, effective December 20, 2006; amended in R16-7 at 40 Ill. Reg. 12268, effective August 9, 2016;

amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

a) This Part establishes requirements for managing the following:

1) Batteries, as described in Section 733.102;

2) Pesticides, as described in Section 733.103;

3) Mercury-containing equipment, as described in Section 733.104; and

4) Lamps, as described in Section 733.105.

b) This Part provides an alternative set of management standards in lieu of regulation pursuant to 35 Ill. Adm. Code 702 through 705 and 720 through 728.

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

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3, ~~as added, and 40 CFR~~ 271.10(b), 271.11(b), and 271.12(h) (2017) ~~(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

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

Section 733.102 Applicability: Batteries

a) Batteries covered under this Part.

1) The requirements of this Part apply to persons managing batteries, as described in Section 733.109, except those listed in subsection (b) ~~of this Section~~.

2) Spent lead-acid batteries that are not managed under Subpart G of 35 Ill. Adm. Code 726, are subject to management under this Part.

b) Batteries not covered under this Part. The requirements of this Part do not apply to persons managing the following batteries:

1) Spent lead-acid batteries that are managed under Subpart G of 35 Ill. Adm. Code 726;

2) Batteries, as described in Section 733.109, that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~; or

3) Batteries, as described in Section 733.109, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.

c) Generation of waste batteries.

1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

2) An unused battery becomes a waste on the date the handler decides to discard it.

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

Section 733.103 Applicability: Pesticides

a) Pesticides covered under this Part. The requirements of this Part apply to persons managing pesticides, as described in Section 733.109, that meet the following conditions, except those listed in subsection (b) ~~of this Section~~:

1) Recalled pesticides, as follows:

A) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under Section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136q(b)), including, but not limited to those owned by the registrant responsible for conducting the recall; or

B) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant; or

2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

b) Pesticides not covered under this Part. The requirements of this Part do not apply to persons managing the following pesticides:

1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~ and unused pesticide products described in subsection (a)(2) ~~of this Section~~ that are managed by farmers in compliance with 35 Ill. Adm. Code 722.170. (35 Ill. Adm. Code 722.170 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 35 Ill. Adm. Code 721.107(b)(3).);

2) Pesticides not meeting the conditions set forth in subsection (a) ~~of this Section~~ must be managed in compliance with the hazardous waste regulations in 35 Ill. Adm. Code 702 through 705 and 720 through 728;

3) Pesticides that are not wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~ or those that are not wastes as described in subsection (d) ~~of this Section~~; and

4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is a waste (see subsection (b)(3) ~~of this Section~~) and either it is listed in Subpart D of 35 Ill. Adm. Code 721 or it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.

c) When a pesticide becomes a waste.

1) A recalled pesticide described in subsection (a)(1) ~~of this Section~~ becomes a waste on the first date on which both of the following conditions apply:

A) The generator of the recalled pesticide agrees to participate in the recall; and

B) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

2) An unused pesticide product described in subsection (a)(2) ~~of this Section~~ becomes a waste on the date the generator decides to discard it.

d) Pesticides that are not wastes. The following pesticides are not wastes:

1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~, provided that either of the following conditions exist:

A) The person conducting the recall has not made a decision to discard the pesticide (e.g., burn it for energy recovery). Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 35 Ill. Adm. Code 721.102; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including those of this Part. This pesticide remains subject to the requirements of FIFRA; or

B) The person conducting the recall has made a decision to use a management option that, under 35 Ill. Adm. Code 721.102, does not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Part. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; and

2) Unused pesticide products described in subsection (a)(2) ~~of this Section~~, if the generator of the unused pesticide product has not decided to discard them (e.g., burn for energy recovery). These pesticides remain subject to the requirements of FIFRA.

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

Section 733.105 Applicability: Lamps

a) Lamps covered under this Part. The requirements of this Part apply to persons that manage lamps, as described in Section 733.109, except those listed in subsection (b) ~~of this Section~~.

b) Lamps not covered under this Part. The requirements of this Part do not apply to persons that manage the following lamps:

1) Lamps that are not yet wastes under 35 Ill. Adm. Code 721, as provided in subsection (c) ~~of this Section~~; and

2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.

c) Generation of waste lamps.

1) A used lamp becomes a waste on the date it is discarded.

2) An unused lamp becomes a waste on the date the handler decides to discard it.

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

Section 733.108 Applicability: Household and Conditionally Exempt Small Quantity Generator Waste

a) A person that manages any of the wastes listed below may, at its option, manage the waste under the requirements of this Part.

1) Household wastes that are exempt under 35 Ill. Adm. Code 721.104(b)(1) and which are also of the same type as the universal wastes defined at Section 733.109; or

2) VSQG ~~Conditionally exempt small quantity generator~~ wastes that are exempt under 35 Ill. Adm. Code 722.114 ~~721.105~~ and are also of the same type as the universal wastes defined at Section 733.109.

b) A person that commingles the wastes described in subsections (a)(1) and (a)(2) ~~of this Section~~ together with universal waste regulated under this Part must manage the commingled waste under the requirements of this Part.

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

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

   A) Sorting batteries by type;

   B) Mixing battery types in one container;

   C) Discharging batteries so as to remove the electric charge;

   D) Regenerating used batteries;

   E) Disassembling batteries or battery packs into individual batteries or cells;

   F) Removing batteries from consumer products; or

   G) Removing electrolyte from batteries; and

3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed in subsection (a)(2) ~~of this Section~~, must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

   A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1) ~~of this Section~~, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) ~~of this Section~~;

3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The

container must be closed; must be structurally sound; must be compatible with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler follows each of the following procedures:

A) It removes and manages the ampules in a manner designed to prevent breakage of the ampules;

B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~;

D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~;

E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2)~~ of this Section~~.

4) Required hazardous waste determination and further waste management.

A) A small quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A small quantity handler of universal waste must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste lamps must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A small quantity handler of universal waste lamps must immediately clean up and place in a container any lamp that is broken, and the small quantity handler must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an eight-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) ~~of this Section~~;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling, and transportation.

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

Section 733.114 Labeling and Marking

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste, as follows:

a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Batteries~~,~~", "Waste Batteries~~,~~", or "Used Batteries".

b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly, as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides~~.~~".

c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A)~~ of this Section~~ is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) ~~of this Section~~ is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides~~.~~".

d) Universal waste mercury-containing equipment and universal waste thermostat labeling:

1) Universal waste mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury-Containing ~~MercuryMercury-Containing~~ Equipment~~,~~", or "Waste Mercury-Containing Equipment~~,~~", or "Used Mercury-Containing Equipment~~.~~".

2) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostats~~;~~", ~~,~~ or "Waste Mercury Thermostats~~;~~", ~~,~~ or "Used Mercury Thermostats".

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste-Lamps~~;~~", ~~,~~ "Waste Lamps~~;~~", ~~,~~ or "Used Lamps~~.~~".~~.~~

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

Section 733.115 Accumulation Time Limits

a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.

b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal.

c) A small quantity handler of universal waste that accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:

1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3) Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;

4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

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

Section 733.118 Off-Site Shipments

a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

b) If a small quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subpart D ~~of this Part~~ while transporting the universal waste.

c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a small quantity handler of universal waste must package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:

1) Receive the waste back when notified that the shipment has been rejected; or

2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:

1) Send the shipment back to the originating handler; or

2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-

hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.120 Exports

A small quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler~~ is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.~~) shall do the following:~~

~~a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~

~~b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~

~~c) Provide a copy of the USEPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

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

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.133 Waste Management

a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not

breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

A) Sorting batteries by type;

B) Mixing battery types in one container;

C) Discharging batteries so as to remove the electric charge;

D) Regenerating used batteries;

E) Disassembling batteries or battery packs into individual batteries or cells;

F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries.

3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed in subsection (a)(2) ~~of this Section~~ must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations

apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1)~~ of this Section~~, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1)~~ of this Section~~;

3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste mercury-containing equipment. A large quantity handler of universal waste must manage universal waste mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste must place in a container any universal mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed; must be structurally sound; must be compatible with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment, provided the handler follows each of the following procedures:

A) It removes the ampules in a manner designed to prevent breakage of the ampules;

B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~;

D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~;

E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:

A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) ~~of this Section~~.

4) Required hazardous waste determination and further waste management.

A) A large quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A large quantity handler of universal waste must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste lamps must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A large quantity handler of universal waste lamps must immediately clean up and place in a container any lamp that is broken, and the large quantity handler must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and

3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device

achieves the emission controls required in subsection (d)(5)(A) ~~of this Section~~;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

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

Section 733.134 Labeling and Marking

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste, as follows:

a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Batteries", or "Waste Batteries", or "Used Batteries".

b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides~~.~~".

c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A)~~ of this Section~~ is not feasible, the appropriate label as required pursuant to the USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) ~~of this Section~~ is not feasible, another label prescribed or designated by the pesticide collection program; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides~~.~~".

d) Universal waste mercury-containing equipment and universal waste thermostat labeling:

1) Mercury-containing equipment (*i.e.*, each device) or a container in which the equipment is contained must be labeled or marked clearly with any of the following phrases: "Universal Waste—Mercury Containing Equipment~~,~~", "Waste Mercury-Containing Equipment~~,~~", or "Used Mercury-Containing Equipment~~.~~".

2) A universal waste mercury-containing thermostat or a container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostats~~,~~", or "Waste Mercury Thermostats~~,~~", or "Used Mercury Thermostats".

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste-Lamps~~,~~", "Waste Lamps", or "Used Lamps~~.~~".

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

Section 733.135 Accumulation Time Limits

a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.

b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:

1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;

3) Maintaining an on-site inventory system that identifies the date the universal waste being accumulated became a waste or was received;

4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

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

Section 733.138 Off-Site Shipments

a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

b) If a large quantity handler of universal waste self-transports universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subpart D ~~of this Part~~ while transporting the universal waste.

c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:

1) Receive the waste back when notified that the shipment has been rejected; or

2) Agree with the receiving handler on a destination facility to which the shipment will be sent.

f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:

1) Send the shipment back to the originating handler; or

2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.139 Tracking Universal Waste Shipments

a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

1) The name and address of the originating universal waste handler or foreign shipper from which the universal waste was sent;

2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);

3) The date of receipt of the shipment of universal waste.

b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign destination to which the universal waste was sent;

2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and

3) The date the shipment of universal waste left the facility.

c) Record retention.

1) A large quantity handler of universal waste must retain the records described in subsection (a) ~~of this Section~~ for at least three years from the date of receipt of a shipment of universal waste.

2) A large quantity handler of universal waste must retain the records described in subsection (b) ~~of this Section~~ for at least three years from the date a shipment of universal waste left the facility.

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

Section 733.140 Exports

A large quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler~~ is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.~~) must do the following:~~

~~a) Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~

~~b) Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~

~~c) Provide a copy of the USEPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.~~

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

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.151 Prohibitions

a) A universal waste transporter is prohibited from the following:

1) Disposing of universal waste; and

2) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (b).

b) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:

1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

A) Name and address of the transporter;

B) Estimated monthly amount of lamps crushed; and

C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit

verifying that the crushing device achieves the emission controls required in subsection (b)(1) ~~of this Section~~;

3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115 ~~722.134~~, and has available equipment necessary to comply with this requirement;

4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

5) The transporter ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

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

Section 733.152 Waste Management

a) A universal waste transporter must comply with all applicable USDOT regulations in 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers—General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b) for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b). For purposes of the USDOT regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of 35 Ill. Adm. Code 722. Because universal waste does not

require a hazardous waste manifest, it is not considered hazardous waste under the USDOT regulations.

b) Some universal waste materials are regulated by the USDOT as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2 (Hazardous Materials Classes and Index to Hazard Class Definitions), incorporated by reference in Section 720.111(b). As universal waste shipments do not require a manifest under 35 Ill. Adm. Code 722, they may not be described by the USDOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste~~.~~".

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

Section 733.153 Accumulation Time Limits

a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Subpart B or C ~~of this Part~~ while storing the universal waste.

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

Section 733.156 Exports

A universal waste transporter transporting a shipment of universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the transporter~~ is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.~~) may not accept a shipment if the transporter knows the shipment does not conform to the USEPA Acknowledgment of Consent. In addition the transporter must ensure the following:~~

~~a) A copy of the USEPA Acknowledgment of Consent accompanies the shipment; and~~

~~b) The shipment is delivered to the facility designated by the person initiating the shipment.~~

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section 733.161 Off-Site Shipments

a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it must contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must perform either of the following actions:

1) Send the shipment back to the original shipper; or

2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.

d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or State solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

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

Section 733.162 Tracking Universal Waste Shipments

a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

1) The name and address of the universal waste handler, destination facility, or foreign shipper from which the universal waste was sent;

2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and

3) The date of receipt of the shipment of universal waste.

b) The owner or operator of a destination facility must retain the records described in subsection (a) ~~of this Section~~ for at least three years from the date of receipt of a shipment of universal waste.

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

SUBPART F: IMPORT REQUIREMENTS

Section 733.170 Imports

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of Subpart H of 35 Ill. Adm. Code 722 and the applicable requirements of this Part immediately after the waste enters the United States, as indicated in subsections (a) through (c) ~~of this Section~~:

a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D ~~of this Part~~.

b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subpart B or C ~~of this Part~~, as applicable.

c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E ~~of this Part~~.

~~d) Persons managing universal waste that is imported from an OECD country as specified in 35 Ill. Adm. Code 722.158(a)(1) are subject to subsections (a)~~

~~through (c) of this Section, in addition to the requirements of Subpart H of 35 Ill. Adm. Code 722.~~

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

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:

1) If USEPA has already added the waste or category of waste to federal 40 CFR 273: by identical-in-substance rulemaking, under Sections 7.2 and 22.4(a) of the Act ~~[415 ILCS 5/7.2 and 22.4(a)]~~, 35 Ill. Adm. Code 101 and 102, and 35 Ill. Adm. Code 720.120; or

2) If USEPA has not added the waste or category of waste to federal 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act ~~[415 ILCS 5/22.4(b) and 27]~~, 35 Ill. Adm. Code 101 and 102, this Subpart G, and 35 Ill. Adm. Code 720.120 and 720.123.

BOARD NOTE: The Board cannot add a hazardous waste or category of hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.

b) Petitions for identical-in-substance rulemaking.

1) Any petition for identical-in-substance rulemaking under subsection (a)(1) ~~of this Section~~ must include a copy of the Federal Register notices of adopted amendments in which USEPA promulgated the additions to federal 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register notices.

2) If the petitioner desires expedited Board consideration of the proposed amendments to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.

c) Petitions for general rulemaking.

1) To be successful using the general rulemaking procedure under subsection (a)(2) ~~of this Section~~, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:

A) It would be appropriate for the waste or category of waste;

B) It would improve management practices for the waste or category of waste; and

C) It would improve implementation of the hazardous waste program.

2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.

3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) ~~of this Section~~.

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

Section 733.181 Factors for Petitions to Include Other Wastes

a) Hazardous waste listing or characteristics. The waste or category of waste, as generated by a wide variety of generators, is listed in Subpart D of 35 Ill. Adm. Code 721, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. (When a characteristic waste is added to the universal waste regulations of this Part by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 35 Ill. Adm. Code 720.110 and Section 733.109 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Part;

b) Generation by a wide variety of types of facilities. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, VSQGs ~~conditionally exempt small quantity generators~~, small businesses, or government organizations, as well as large industrial facilities);

c) Generation by a large number of generators. The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

d) Collection systems to ensure close stewardship. Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

e) Waste management standards and risk to human health and the environment. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Sections 733.113, 733.133, and 733.152; or applicable USDOT requirements) would be protective of human health and the environment during accumulation and transport;

f) Increased likelihood of diversion of waste from non-hazardous waste management systems. Regulation of the waste or category of waste pursuant to this Part will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA (42 USC 6921-6939e);

g) Improved implementation of the hazardous waste program. Regulation of the waste or category of waste pursuant to this Part will improve implementation of and compliance with the hazardous waste regulatory program; or

h) Such other factors as may be appropriate.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hazardous Waste Injection Restrictions

2) Code Citation: 35 Ill. Adm. Code 738

3)

Section Numbers:	Proposed Actions:
738.101	Amendment
738.102	Amendment
738.103	Amendment
738.104	Amendment
738.110	Amendment
738.111	Amendment
738.112	Amendment
738.114	Amendment
738.115	Amendment
738.116	Amendment
738.117	Amendment
738.118	Amendment
738.120	Amendment
738.121	Amendment
738.122	Amendment
738.123	Amendment
738.124	Amendment

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

5) A complete description of the subjects and issues involved: The amendments to Part 738 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 739, and 810 through 812, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 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 702. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 738 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in–Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the

several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in–Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

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

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 738
HAZARDOUS WASTE INJECTION RESTRICTIONS

SUBPART A: GENERAL

Section

SUBPART B: PROHIBITIONS ON INJECTION

Section

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section

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 R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993;

amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 738.101 Purpose, Scope, and Applicability

a) This Part identifies hazardous wastes that are restricted from disposal into Class I injection wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.

b) The requirements of this Part apply to owners or operators of ~~the following~~ Class I hazardous waste injection wells used to inject hazardous waste.~~:~~

~~1) Hazardous waste injection wells that are used to inject hazardous waste; and~~

~~2) Injection wells that are used to inject wastes that once exhibited a prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721, at the point of generation, and which no longer exhibit the characteristic at the point of injection.~~

c) Wastes otherwise prohibited from injection may continue to be injected under any of the following circumstances:

1) If USEPA has granted an extension from the effective date of a prohibition, as described in Section 738.104; or

2) If the Board has granted an adjusted standard in response to a petition filed under Section 738.120; or

3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code 720.110 ~~721.105~~.

d) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited from injection under this Part or 35 Ill. Adm. Code 728 is not prohibited from injection if the following is true of the waste:

1) It is disposed into a non-hazardous or hazardous waste injection well, as defined under 35 Ill. Adm. Code 730.106(a); and

2) It does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

BOARD NOTE: Derived from 40 CFR 148.1 (2017) ~~(2005)~~.

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

Section 738.102 Definitions

""~~"~~Injection interval" means that part of the injection zone in which the well is screened or in which the waste is otherwise directly emplaced.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

"USEPA hazardous waste number" means the number assigned by USEPA pursuant to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

BOARD NOTE: Derived from 40 CFR 148.2 (2017) ~~(2005)~~.

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

Section 738.103 Dilution Prohibited as a Substitute for Treatment

~~a)~~ The provisions of 35 Ill. Adm. Code 728.103 apply to owners or operators of Class I hazardous waste injection wells ~~used to inject a waste that is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.~~

~~b) The owner or operator of a Class I non-hazardous waste injection well that injects waste formerly exhibiting a hazardous characteristic that has been removed by dilution may address underlying hazardous constituents by treating the hazardous waste, by obtaining an exemption pursuant to a petition filed under Section 738.120, or by complying with the provisions set forth in 35 Ill. Adm. Code 728.109.~~

BOARD NOTE: Derived from 40 CFR 148.3 (2017) ~~(2005)~~.

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

Section 738.104 Case-by-Case Extensions of an Effective Date

The owner or operator of a Class I hazardous ~~or non-hazardous~~ waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B ~~of this Part~~ pursuant to 40 CFR 268.5. Any extension that is granted by USEPA will be deemed an extension of the effective date of the derivative Board rule.

BOARD NOTE: Derived from 40 CFR 148.4 (2017) ~~(2005)~~.

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

SUBPART B: PROHIBITIONS ON INJECTION

Section 738.110 Waste-Specific Prohibitions: Solvent Wastes

a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F001, F002, F003, F004, and F005.

b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.10 (2017) ~~(2005)~~.

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

Section 738.111 Waste-Specific Prohibitions: Dioxin-Containing Wastes

a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F020, F021, F022, F023, F026, F027, and F028.

b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.11 (2017) ~~(2005)~~.

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

Section 738.112 Waste-Specific Prohibitions: California List Wastes

a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.

b) The following hazardous wastes are prohibited from underground injection:

1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/ℓ;

2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

A) Arsenic or compounds (as As) 500 mg/ℓ;

B) Cadmium or compounds (as Cd) 100 mg/ℓ;

C) Chromium (VI) or compounds (as Cr VI) 500 mg/ℓ;

D) Lead or compounds (as Pb) 500 mg/ℓ;

E) Mercury or compounds (as Hg) 20 mg/ℓ;

F) Nickel or compounds (as Ni) 134 mg/ℓ;

G) Selenium or compounds (as Se) 100 mg/ℓ; and

H) Thallium or compounds (as Tl) 130 mg/ℓ;

3) Liquid hazardous waste having a pH less than or equal to two (2.0); and

4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1,000 mg/kg.

c) The requirements of subsections (a) and (b) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 (2017) ~~(2005)~~.

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

Section 738.114 Waste-Specific Prohibitions: First Third Wastes

a) Prohibitions.

1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F006 (wastewaters and nonwastewaters), F008, F009, F019.

2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K001, K004, K008, K015 (wastewaters and nonwastewaters), K016 (at concentrations greater than or equal to one percent), K017, K018, K019, K020, K021 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K022 (wastewaters and nonwastewaters), K024, K030, K031, K035, K036 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K037, K044, K045, K046 (wastewaters and nonwastewaters), K047, K048, K049, K050, K051, K052, K060 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K061 (wastewaters and nonwastewaters), K062, K069 (calcium sulfate nonwastewaters; all wastewaters; and noncalcium sulfate nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K071, K073, K083, K084, K085, K086, K087, K099, K101 (all wastewaters and nonwastewaters), K102 (all wastewaters and nonwastewaters), K103, K104, and K106.

3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P001, P004, P005, P010, P011, P012, P015, P016, P018, P020, P030, P036, P037, P039, P041, P048, P050, P058, P059, P063, P068, P069, P070, P071, P081, P082, P084, P087, P089, P092, P094, P097, P102, P105, P108, P110, P115, P120, P122, P123, U007, U009, U010, U012, U016, U018, U019, U022, U029, U031, U036, U037, U041, U043, U044, U046, U050, U051, U053, U061, U063, U064, U066, U067, U074, U077, U078, U086, U089, U103, U105, U108, U115, U122, U124, U129, U130, U133, U134, U137, U151, U154, U155, U157, U158, U159, U171, U177, U180, U185, U188, U192, U200, U209, U210, U211, U219, U220, U221, U223, U226, U227, U228, U237, U238, U248, and U249.

b) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K016 (at concentrations less than one percent).

c) Prohibitions.

1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F007.

2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (nonwastewaters) and K013 (nonwastewaters).

d) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (wastewaters), K013 (wastewaters), and K014.

e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition by USEPA as referenced in Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 (2017) ~~(2005)~~.

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

Section 738.115 Waste-Specific Prohibitions: Second Third Wastes

a) Prohibitions.

1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F010 and F024.

2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K009 (nonwastewaters), K010, K025 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K027, K028, K029 (wastewaters and

nonwastewaters), K038, K039, K040, K041, K042, K043, K095 (wastewaters and nonwastewaters), K096 (wastewaters and nonwastewaters), K097, K098, K105, K113, K114, K115, and K116.

3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P002, P003, P007, P008, P014, P026, P027, P029, P040, P043, P044, P049, P054, P057, P060, P062, P066, P067, P072, P074, P085, P098, P104, P106, P107, P111, P112, P113, P114, U002, U003, U005, U008, U011, U014, U015, U020, U021, U023, U025, U026, U028, U032, U035, U047, U049, U057, U058, U059, U060, U062, U070, U073, U080, U083, U092, U093, U094, U095, U097, U098, U099, U101, U106, U107, U109, U110, U111, U114, U116, U119, U127, U128, U131, U135, U138, U140, U142, U143, U144, U146, U147, U149, U150, U161, U162, U163, U164, U165, U168, U169, U170, U172, U173, U174, U176, U178, U179, U189, U193, U196, U203, U205, U206, U208, U213, U214, U215, U216, U217, U218, U235, U239, and U244.

b) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection pursuant to the treatment standards specified in 35 Ill. Adm. Code 728.141 and 728.143 applicable to F011 and F012 wastewaters and nonwastewaters: F011 (nonwastewaters) and F012 (nonwastewaters).

c) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K009 (wastewaters).

d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.15 (2017) ~~(2005)~~.

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

Section 738.116 Waste-Specific Prohibitions: Third Third Wastes

a) Prohibitions.

1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F025 and F039 (nonwastewaters).

2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K002, K003, K005 (wastewaters and nonwastewaters), K006, K007 (wastewaters and nonwastewaters), K023, K026, K032, K033, K034, K093, K094, and K100.

3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P006, P009, P013, P017, P021, P022, P023, P024, P028, P031, P033, P034, P038, P042, P045, P046, P047, P051, P056, P064, P065, P073, P075, P076, P077, P078, P088, P093, P095, P096, P099, P101, P103, P109, P116, P118, P119, P121, U001, U004, U006, U017, U024, U027, U030, U033, U034, U038, U039, U042, U045, U048, U052, U055, U056, U068, U069, U071, U072, U075, U076, U079, U081, U082, U084, U085, U087, U088, U090, U091, U096, U102, U112, U113, U117, U118, U120, U121, U123, U125, U126, U132, U136, U141, U145, U148, U152, U153, U156, U160, U166, U167, U181, U182, U183, U184, U186, U187, U190, U191, U194, U197, U201, U202, U204, U207, U222, U225, U234, U236, U240, U243, U246, and U247.

4) The wastes specified in 35 Ill. Adm. Code 721.121 or 721.124 by characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D001, D004, D005, D006, D008, D009 (wastewaters), D010, D011, D012, D013, D014, D015, D016, and D017.

b) Mixed radioactive and hazardous wastes in 35 Ill. Adm. Code 728.110, 728.111, and 728.112, which are mixed radioactive and hazardous wastes, are prohibited from underground injection.

c) Prohibitions.

1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F039 ~~(nonwastewaters)~~ (wastewaters).

2) The wastes specified in 35 Ill. Adm. Code 721.122, 721.123, or 721.124 as hazardous based on a characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D002 (wastewaters and nonwastewaters), D003 (wastewaters and nonwastewaters), D007 (wastewaters and nonwastewaters), and D009 (nonwastewaters).

d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.16 (2017) ~~(2005)~~.

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

Section 738.117 Waste-Specific Prohibitions: Newly-Listed Wastes

a) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: F037, F038, K107, K108, K109, K110, K111, K112, K117, K118, K123, K124, K125, K126, K131, K136, U328, U353, and U359.

b) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151.

c) This subsection (c) corresponds with 40 CFR 148.17(c), removed and marked "reserved" by USEPA at 61 Fed. Reg. 15662 (April 8, 1996). This statement maintains structural consistency with USEPA rules.

d) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K117, K118, K131, and K132.

e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.17 (2017) ~~(2005)~~.

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

Section 738.118 Waste-Specific Prohibitions: Newly-Listed and Identified Wastes

a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b) ~~of this Section~~, are prohibited from underground injection.

b) Characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.

c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.

d) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.

e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205,

U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.

f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 are prohibited from underground injection.

g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043.

h) This subsection (h) corresponds with 40 CFR 148.18(h), which USEPA has removed and marked "reserved.". This statement maintains structural consistency with the federal regulations.

i) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.

j) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K174 and K175 are prohibited from underground injection.

k) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K176, K177, and K178 are prohibited from underground injection.

l) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K181 are prohibited from underground injection.

m) The requirements of subsections (a) through (l) ~~of this Section~~ do not apply under any of the following circumstances:

1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or

2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.18 (2017) ~~(2005)~~.

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

SUBPART C: PETITION STANDARDS AND PROCEDURES

Section 738.120 Petitions to Allow Injection of a Prohibited Waste

a) Any person seeking an exemption from a prohibition under Subpart B ~~of this Part~~ for the injection of a restricted hazardous waste~~, including a hazardous waste that exhibits a characteristic of hazardous waste and which contains underlying hazardous constituents at the point of generation, but which no longer exhibits a characteristic of hazardous waste when injected~~ into ~~a Class I~~ an injection well or wells~~,~~ must submit a petition for an adjusted standard to the Board, pursuant to Subpart D of 35 Ill. Adm. Code 104, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing of the following:

1) The hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream are such that reliable predictions can be made with regard to each of the following:

A) Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years in either of the following ways:

i) Vertically upward out of the injection zone; or

ii) Laterally within the injection zone to a point of discharge or interface with an underground source of drinking water (USDW), as defined in 35 Ill. Adm. Code 730; or

B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with a USDW, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions, or other means; and

2) For each well, the petition has fulfilled the following requirements:

A) It has demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;

B) It has located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;

C) It has provided a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which will become a condition of any adjusted standard granted; and

D) It has provided the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection (a)(2) ~~of this Section~~ need not be incorporated in a permit at the time the Board grants an adjusted standard.

b) A demonstration under subsection (a)(1)(A) ~~of this Section~~ must identify the strata within the injection zone which will confine fluid movement above the injection interval, and it must include a showing that this strata is free of known transmissive faults of fractures and that there is a confining zone above the injection zone.

c) A demonstration under subsection (a)(1)(B) ~~of this Section~~ must identify the strata within the injection zone where waste transformation will be accomplished, and it must include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.

d) A demonstration may include either of the following features, which will become a condition of the adjusted standard:

1) Treatment methods that the owner or operator will use to reduce the toxicity or mobility of the wastes; or

2) A monitoring plan that the owner or operator will use to enhance confidence in one or more aspects of the demonstration.

e) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions imposed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b), and (c) ~~of this Section~~.

f) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board will grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that the additional waste or wastes will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 (2017) ~~(2005)~~.

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

Section 738.121 Required Information to Support Petitions

a) Information submitted in support of a Section 738.120 petition must meet the following requirements:

1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;

2) The following must be true with regard to estimation and monitoring techniques and the identification of applicable existing USEPA-certified test protocols:

A) All estimation and monitoring techniques must be approved by the Board; and

B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;

3) Predictive models must have been verified and validated, must be appropriate for the specific site, waste streams, and injection conditions of the operation, and they must be calibrated for existing sites where sufficient data are available;

4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;

5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and

6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner must conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.

b) Any petitioner under Section 738.120(a)(1)(A) must provide sufficient site-specific information to support the demonstration, such as the following:

1) The thickness, porosity, permeability and extent of the various strata in the injection zone;

2) The thickness, porosity, permeability, extent and continuity of the confining zone;

3) The hydraulic gradient in the injection zone;

4) The hydrostatic pressure in the injection zone; and

5) The geochemical conditions of the site.

c) In addition to the information in subsection (b) ~~of this Section~~, any petitioner under Section 738.120(a)(1)(B) ~~of this Part~~ must provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner must provide the information necessary to support the demonstration, such as the following:

1) A description of the chemical processes or other means that will lead to waste transformation; and

2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 (2017) ~~(2005)~~.

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

Section 738.122 Submission, Review, and Approval or Denial of Petitions

a) Any petition submitted to the Board, pursuant to Section 738.120(a) ~~of this Part~~, must include the following:

1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;

2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;

3) Such additional information as the Board requires to support the petition pursuant to Section 738.120 and Section 738.121 ~~of this Part~~; and

4) This statement signed by the petitioner or an authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.

c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).

d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to this Subpart C, the Agency must initiate and reasonably expedite the

necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10 years.

e) Each adjusted standard granted pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 (2017) ~~(2005)~~.

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

Section 738.123 Review of Adjusted Standards

a) Agency review.

1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency must review any adjusted standard granted by the Board pursuant to this Subpart C.

2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency must request in writing that the permittee submit a petition to the Board to modify the adjusted standard.

3) All petitions requested by the Agency pursuant to subsection (a)(2) ~~of this Section~~ must be filed pursuant to section 738.120(f). Such a petition may seek reaffirmation of the adjusted standard without modification.

4) Permittee's failure to file a petition, Agency petitions for reconsideration, and Board reconsideration of adjusted standards.

A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2) ~~of this Section~~, the Agency may petition the Board for reconsideration of any adjusted standard granted under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.

B) Board review.

i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same extent that it would review a new petition for an adjusted standard.

ii) The Board may treat a motion for reconsideration of an adjusted standard as a new petition under Section 738.120 and require that the full requirements of that Section and of Subpart D of 35 Ill. Adm. Code 104 apply to the proceeding, with the Agency acting as the petitioner.

b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 (2017) ~~(2005)~~.

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

Section 738.124 Termination of Approved Petition

a) Termination through an enforcement action.

1) An enforcement action against an owner or operator having an adjusted standard and limitation on Agency petitions for reconsideration of an adjusted standard:

A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of the Environmental Protection Act ~~[415 ILCS 5/33]~~ for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.

B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.

2) In any action under subsection (a)(1) ~~of this Section~~, if the Board finds a violation of the Act or Board regulations, the Board may terminate any

adjusted standard granted under Section 738.120 for any of the following causes:

A) Noncompliance by the owner or operator with any condition of the adjusted standard;

B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or

C) A determination that new information shows that the basis for approval of the petition is no longer valid.

b) In any action under subsection (a)(1) ~~of this Section~~, the Board will terminate an adjusted standard granted under Section 738.120 for the following causes:

1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the Board's decision on the petition;

2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where both of the following conditions are fulfilled:

A) The migration resulted from a mechanical failure of the well that can be promptly corrected through a repair to the injection well itself or from an undetected well or conduit that can be plugged promptly; and

B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 (2017) ~~(2005)~~.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Standards for the Management of Used Oil

2) Code Citation: 35 Ill. Adm. Code 739

3)

Section Numbers:	Proposed Actions:
739.100	Amendment
739.110	Amendment
739.120	Amendment
739.122	Amendment
739.124	Amendment
739.130	Amendment
739.131	Amendment
739.132	Amendment
739.140	Amendment
739.141	Amendment
739.144	Amendment
739.145	Amendment
739.146	Amendment
739.150	Amendment
739.152	Amendment
739.154	Amendment
739.156	Amendment
739.160	Amendment
739.161	Amendment
739.163	Amendment
739.164	Amendment
739.165	Amendment
739.166	Amendment
739.170	Amendment
739.174	Amendment
739.175	Amendment

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

5) A complete description of the subjects and issues involved: The amendments to Part 739 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, and 810 through 812, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 739 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

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

Section 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications
739.112 Prohibitions
739.113 Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing
739.122 Used Oil Storage
739.123 On-Site Burning in Space Heaters
739.124 Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers
739.131 Used Oil Collection Centers
739.132 Used Oil Aggregate Points Owned by the Generator

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section
739.140 Applicability
739.141 Restrictions on Transporters that Are Not Also Processors
739.142 Notification
739.143 Used Oil Transportation
739.144 Rebuttable Presumption for Used Oil

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

739.181 Disposal
739.182 Use As a Dust Suppressant

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

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010; amended in R13-15 at 37 Ill. Reg. 17963, effective October 24, 2013; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 739.100 Definitions

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank, as defined in 35 Ill. Adm. Code 280.12.
BOARD NOTE: This definition is different from the definition for "aboveground tank" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

"Classification", as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil. nonhazardous used oil mixture, or nonhazardous other special waste.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation had commenced on or prior to October 4, 1996. Installation will be considered to have commenced if the owner or operator had obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had begun, or

The owner or operator had entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

"Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

BOARD NOTE: Household "do-it-yourselfer" used oil is not subject to the State's special waste hauling permit requirements under Part 809.

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.

BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that contain hazardous wastes. This definition of new tank is limited to this Part only.

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished

petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Used oil" means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons (208 ℓ). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ that bring used oil to the collection center in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

"Used oil transporter" means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

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

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728.

a) Used oil. Used oil is presumed to be recycled, unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or

material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

b) Mixtures of used oil and hazardous waste.

1) Listed hazardous waste.

A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728, rather than as used oil under this Part.

B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.

ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in Subpart C of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste that is listed in Subpart D ~~of this Part~~ solely because it exhibits one or more of the characteristics of

hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:

A) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721; or

B) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.

C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.

3) VSQG ~~Conditionally exempt small quantity generator~~ hazardous waste. A mixture of used oil and VSQG ~~conditionally exempt small quantity generator~~ hazardous waste regulated under 35 Ill. Adm. Code 722.114 ~~721.105~~ is subject to regulation as used oil under this Part.

c) Materials containing or otherwise contaminated with used oil.

1) Except as provided in subsection (c)(2) ~~of this Section~~, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:

A) The material is not used oil, so it is not subject to this Part, and

B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728.

2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.

3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.

d) Mixtures of used oil with products.

1) Except as provided in subsection (d)(2) ~~of this Section~~, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.

2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C ~~of this Part~~.

e) Materials derived from used oil.

1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).

2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.

3) Except as provided in subsection (e)(4) ~~of this Section~~, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal:

A) The materials are not used oil and thus are not subject to this Part, and

B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728 if the materials are listed or identified as hazardous waste.

4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.

f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.

2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.

3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.

4) Except as provided in subsection (g)(5)~~ of this Section~~, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion

into the petroleum refining facility process, the used oil is subject to the requirements of this Part.

5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).

6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.

h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.

i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

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

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section 739.120 Applicability

a) General. This Subpart C applies to all generators of used oil, except the following:

1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under this Part.

2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves which party will fulfill the requirements of this Subpart C.

3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.

4) Farmers. Farmers who generate an average of 25 gallons (95 ℓ) per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.

b) Other applicable provisions. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5):

1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), must also comply with Subpart E ~~of this Part~~.

2) A generator that processes or re-refines used oil.

A) Except as provided in subsection (b)(2)(B) ~~of this Section~~, a generator that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~.

B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:

i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;

ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse

pursuant to Section 402 or 307(b) for the federal Clean Water Act (33 USC 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;

iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or

v) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to Section 739.123.

3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, must also comply with Subpart G ~~of this Part~~.

4) A generator that directs shipments of off-specification used oil from their facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~.

5) A generator that disposes of used oil must also comply with Subpart I ~~of this Part~~.

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

Section 739.122 Used Oil Storage

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

a) Storage units. A used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a generator facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

c) Labels.

1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil~~.~~".

2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil~~.~~".

d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a generator must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located~~.~~". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located~~,~~", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

Section 739.124 Off-Site Shipments

Except as provided in subsections (a) through (c) ~~of this Section~~, a generator must ensure that its used oil is transported only by transporters that have obtained a USEPA identification number and an Illinois special waste identification number pursuant to 35 Ill. Adm. Code 809.

BOARD NOTE: A generator that qualifies for an exemption under Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under 35 Ill. Adm. Code 809.

a) Self-transportation of small amounts to registered collection centers. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:

1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and

3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

b) Self-transportation of small amounts to aggregation points owned by the generator. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:

1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and

3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

c) Tolling arrangements. A used oil generator may arrange for used oil to be transported by a transporter without a USEPA identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate the following information:

1) The type of used oil and the frequency of shipments;

2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and

3) That reclaimed oil will be returned to the generator.

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

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

Section 739.130 Do-It-Yourselfer Used Oil Collection Centers

a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C ~~of this Part~~.

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

Section 739.131 Used Oil Collection Centers

a) Applicability. This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ who bring used oil to the collection center in shipments of no more than 55

gallons (208 ℓ) under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Used oil collection center requirements. Owners or operators of all used oil collection centers must do the following:

1) Comply with the generator standards in Subpart C ~~of this Part~~; and

2) Be registered by the Agency to manage used oil. The used oil collection center must register by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

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

Section 739.132 Used Oil Aggregate Points Owned by the Generator

a) Applicability. This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124(b). A used oil aggregation point may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C ~~of this Part~~.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES

Section 739.140 Applicability

a) General. Except as provided in subsections (a)(1) through (a)(4) ~~of this Section~~, this Subpart E applies to all used oil transporters. A used oil transporter is a person that transports used oil, a person that collects used oil from more than one generator and transport the collected oil, and an owner or operator of a used oil transfer facility.

1) This Subpart E does not apply to on-site transportation.

2) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil collection center as specified in Section 739.124(a).

3) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).

4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) ~~of this Section~~, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

b) Imports and exports. A transporter that imports used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.

c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the

provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

d) Other applicable provisions. A used oil transporter that conducts the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5) ~~of this Section~~:

1) A transporter that generates used oil must also comply with Subpart C ~~of this Part~~;

2) A transporter that processes or re-refines used oil, except as provided in Section 739.141, must also comply with Subpart F ~~of this Part~~;

3) A transporter that burns off-specification used oil for energy recovery must also comply with Subpart G ~~of this Part~~;

4) A transporter that directs shipments of off-specification used oil from its facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and

5) A transporter that disposes of used oil must also comply with Subpart I ~~of this Part~~.

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

Section 739.141 Restrictions on Transporters that Are Not Also Processors

a) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) ~~of this Section~~, a used oil transporter may not process used oil unless they also comply with the requirements for processors in Subpart F ~~of this Part~~.

b) A transporter may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless it also complies with the processor requirements in Subpart F ~~of this Part~~.

c) A transporter of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer facility prior to being

returned to its original use is not subject to the processor and re-refiner requirements in Subpart F ~~of this Part~~.

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

Section 739.144 Rebuttable Presumption for Used Oil

a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

b) The transporter must make this determination by the following means:

1) Testing the used oil; or

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the transporter for at least three years.

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

Section 739.145 Used Oil Storage at Transfer Facilities

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

b) Storage units. An owner or operator of a used oil transfer facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

c) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a transfer facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

d) Secondary containment for containers. Containers used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

g) Labels.

1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil.".

2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil.".

h) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, an owner or operator of a transfer facility must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located.". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located,", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

Section 739.146 Tracking

a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:

1) The name and address of the generator, transporter, or processor that provided the used oil for transport;

2) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;

3) The quantity of used oil accepted;

4) The date of acceptance;

5) The signature:

A) Except as provided in subsection (a)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner that provided the used oil for transport.

B) An intermediate rail transporter is not required to sign the record of acceptance; and

6) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:

A) Information stating when and where the special waste was generated;

B) The classification and quantity of the special waste delivered to the transporter;

C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and

D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and

national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:

1) The name and address of the receiving facility or transporter;

2) The USEPA identification number and Illinois special waste identification number of the receiving facility or transporter;

3) The quantity of used oil delivered;

4) The date of delivery;

5) The signature:

A) Except as provided in subsection (b)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

B) An intermediate rail transporter is not required to sign the record of acceptance.

c) Exports of used oil. A used oil transporter must maintain the records described in subsections (b)(1) through (b)(4) ~~of this Section~~ for each shipment of used oil exported to any foreign country.

d) Record retention. The records described in subsections (a), (b), and (c) ~~of this Section~~ must be maintained for at least three years.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.150 Applicability

a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of this Subpart F do not apply to the following:

1) A transporter that conducts incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or

2) A burner that conducts incidental processing operations that occur during the normal course of used oil management prior to burning, as provided in Section 739.161(b).

b) Other applicable provisions. A used oil processor that conducts the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) ~~of this Section~~.

1) A processor that generates used oil must also comply with Subpart C ~~of this Part~~;

2) A processor that transports used oil must also comply with Subpart E ~~of this Part~~;

3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) ~~of this Section~~, a processor that burns off-specification used oil for energy recovery must also comply with Subpart G ~~of this Part~~. Processors burning used oil for energy recovery under the following conditions are not subject to Subpart G ~~of this Part~~:

A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or

B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

4) A processor that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and

5) A processor that disposes of used oil also must comply with Subpart I ~~of this Part~~.

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

Section 739.152 General Facility Standards

a) Preparedness and prevention. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:

1) Maintenance and operation of a facility. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.

2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) ~~of this Section~~:

A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

4) Access to communications or alarm system.

A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2)~~ of this Section~~.

B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2)~~ of this Section~~.

5) Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

6) Arrangements with local authorities.

A) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

ii) Where more than one police and fire department might respond to an emergency, agreements designating primary

emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

b) Contingency plan and emergency procedures. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:

1) Purpose and implementation of contingency plan.

A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.

2) Content of contingency plan.

A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) ~~of this Section~~ in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with

federal 40 CFR 112 or some other emergency or contingency plan exists for the facility under federal, State, or local regulation (e.g., federal 40 CFR 300 or 40 CFR 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.

C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) ~~of this Section~~.

D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) ~~of this Section~~), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

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

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

3) Copies of contingency plan. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:

A) Maintained at the facility; and

B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:

A) Applicable regulations are revised;

B) The plan fails in an emergency;

C) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

D) The list of emergency coordinators changes; or

E) The list of emergency equipment changes.

5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in [subsection (b)(6) ~~of this Section~~]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility."

6) Emergency procedures.

A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:

i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

ii) Notify appropriate State or local agencies with designated response roles if their help is needed.

B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.

C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:

i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and

ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.

E) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:

i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) ~~of this Section~~ before operations are resumed in the affected areas of the facility.

I) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:

i) The name, address, and telephone number of the owner or operator;

ii) The name, address, and telephone number of the facility;

iii) The date, time, and type of incident (e.g., fire, explosion);

iv) The name and quantity of materials involved;

v) The extent of injuries, if any;

vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

vii) The estimated quantity and disposition of recovered material that resulted from the incident.

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

Section 739.154 Used Oil Management

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

a) Management units. A used oil processor may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers and aboveground tanks used to store or process used oil at a processing facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Labels.

1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil.".

2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil.".

g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a processor must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located.". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located,", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

h) Closure.

1) Aboveground tanks. An owner or operator that stores or processes used oil in aboveground tanks must comply with the following requirements:

A) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.

B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) ~~of this Section~~, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).

2) Containers. An owner or operator that stores used oil in containers must comply with the following requirements:

A) At closure, containers holding used oils or residues of used oil must be removed from the site;

B) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

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

Section 739.156 Tracking

a) Acceptance. A used oil processor must keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice,

manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivered the used oil to the processor;

2) The name and address of the generator or processor from whom the used oil was sent for processing;

3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;

4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;

5) The quantity of used oil accepted;

6) The date of acceptance; and

7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:

   A) Information stating when and where the special waste was generated;

   B) The classification and quantity of the special waste delivered to the transporter;

   C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and

   D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a

large quantity generator) or (b) (if I am a small quantity generator) is true."

b) Deliveries. A used oil processor must keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:

1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;

2) The name and address of the burner, processor, or disposal facility that will receive the used oil;

3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;

4) The USEPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;

5) The quantity of used oil shipped;

6) The date of shipment.

7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:

A) Information stating when and where the special waste was generated;

B) The classification and quantity of the special waste delivered to the transporter;

C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and

D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper

condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

c) Record retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

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

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section 739.160 Applicability

a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and (a)(2) ~~of this Section~~. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:

1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or

2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.

b) Other applicable provisions. A used oil burner that conducts the following activities is also subject to the requirements of other applicable provisions of this Part as indicated below.

1) A burner that generates used oil must also comply with Subpart C ~~of this Part~~;

2) A burner that transports used oil must also comply with Subpart E ~~of this Part~~;

3) Except as provided in Section 739.161(b), a burner that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~;

4) A burner that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and

5) A burner that disposes of used oil must comply with Subpart I ~~of this Part~~.

c) Specification fuel. This Subpart G does not apply to a person burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H ~~of this Part~~.

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

Section 739.161 Restriction on Burning

a) Off-specification used oil fuel may only be burned for energy recovery in the following devices:

1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;

2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:

A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or

3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724 or 725.

b) Restrictions.

1) With the following exception, a used oil burner may not process used oil unless it also complies with the requirements of Subpart F ~~of this Part~~.

2) A used oil burner may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

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

Section 739.163 Rebuttable Presumption for Used Oil

a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by the following means:

1) Testing the used oil;

2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

3) If the used oil has been received from a processor subject to regulation under Subpart F ~~of this Part~~, using information provided by the processor.

c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.

2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the burner for at least three years.

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

Section 739.164 Used Oil Storage

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

a) Storage units. A used oil burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.

b) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a burner facility:

1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

2) The containers may not be leaking (no visible leaks).

c) Secondary containment for containers. Containers used to store used oil at a burner facility must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Dikes, berms, or retaining walls; and

B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

e) Secondary containment for new aboveground tanks. A new aboveground tank used to store used oil at burner facilities must be equipped with a secondary containment system.

1) The secondary containment system must consist of the following, at a minimum:

A) Both of the following:

i) Dikes, berms, or retaining walls; and

ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

B) An equivalent secondary containment system.

2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

f) Labels.

1) A container or aboveground tank used to store used oil at a burner facility must be labeled or marked clearly with the words "Used Oil".

2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil".

g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a burner must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located", the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

1) Stop the release;

2) Contain the released used oil;

3) Properly clean up and manage the released used oil and other materials; and

4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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

Section 739.165 Tracking

a) Acceptance. A used oil burner must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivered the used oil to the burner;

2) The name and address of the generator or processor from whom the used oil was sent to the burner;

3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;

4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;

5) The quantity of used oil accepted;

6) The date of acceptance; and

7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:

A) Information stating when and where the special waste was generated;

B) The classification and quantity of the special waste delivered to the transporter;

C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and

D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and

national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

b) Record retention. The records described in subsection (a) ~~of this Section~~ must be maintained for at least three years.

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

Section 739.166 Notices

a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying the following:

1) That the burner has notified USEPA stating the location and general description of his used oil management activities; and

2) That the burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).

b) Certification retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

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

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.170 Applicability

a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:

1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

b) The following persons are not marketers subject to this Subpart H:

1) A used oil generator, or a transporter that transports used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its facility to a used oil burner. However, a processor that burns some used oil fuel for purposes of processing is considered to be burning incidentally to processing. Thus, generator or transporter that directs shipments of off-specification used oil to a processor that incidentally burns used oil is not a marketer subject to this Subpart H;

2) A person that directs shipments of on-specification used oil and which is not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.

c) Any person subject to the requirements of this Subpart H must also comply with one of the following:

1) Subpart C--Standards ~~of this Part - Standards~~ for Used Oil Generators;

2) Subpart E--Standards ~~of this Part - Standards~~ for Used Oil Transporters and Transfer Facilities;

3) Subpart F--Standards ~~of this Part - Standards~~ for Used Oil Processors and Re-refiners; or

4) Subpart G--Standards ~~of this Part - Standards~~ for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

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

Section 739.174 Tracking

a) Off-specification used oil delivery. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

1) The name and address of the transporter that delivers the used oil to the burner;

2) The name and address of the burner that will receive the used oil;

3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;

4) The USEPA identification number and Illinois special waste identification number of the burner;

5) The quantity of used oil shipped;

6) The date of shipment; and

7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:

   A) Information stating when and where the special waste was generated;

   B) The classification and quantity of the special waste delivered to the transporter;

   C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and

   D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

b) On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:

1) The name and address of the facility receiving the shipment;

2) The quantity of used oil fuel delivered;

3) The date of shipment or delivery; and

4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).

c) Record retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

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

Section 739.175 Notices

a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, it must obtain a one-time written and signed notice from the burner certifying the following:

1) That the burner has notified USEPA stating the location and general description of used oil management activities; and

2) That the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).

b) Certification retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Solid Waste Disposal: General Provisions

2) Code Citation: 35 Ill. Adm. Code 810

3)

Section Numbers:	Proposed Actions:
810.103	Amendment
810.104	Amendment
810.105	Amendment

4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27.

5) A complete description of the subjects and issues involved: The amendments to Part 810 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 811 and 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the Illinois Register. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 810 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

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

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? Yes.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

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 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. 7253, effective March 13, 2014; amended in R15-8 at 38 Ill. Reg. 23458, effective November 24, 2014; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act (Act) ~~[415 ILCS 5]~~:

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Agency" is the Environmental Protection Agency established by the Environmental Protection Act. [415 ILCS 5/3.105]

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

"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3])

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

"Beneficially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents which exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Board" is the Pollution Control Board established by the Act. [415 ILCS 5/3.130]

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

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

"Coal combustion power generating facilities" means establishments that generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

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

"Dead animal disposal site" means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal

Disposal Act [225 ILCS 610] and regulations adopted pursuant thereto (8 Ill. Adm. Code 90).

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

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

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

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

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

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

"Existing MSWLF unit" means any municipal solid waste landfill unit that has received household waste before October 9, 1993. [415 ILCS 5/3.285]

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

waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

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

"Foundry sand" means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

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

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

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

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

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

"Groundwater" means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)

"*Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew*

quarters, campgrounds, picnic grounds, and day-use recreation areas). [415 ILCS 5/3.230]

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

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

"Iron slag" means slag.

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

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

"Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. A horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. [415 ILCS 5/3.275]

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

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

"Low risk waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause

an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Malodor" means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be* described as malodorous and which may be *injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* [415 ILCS 5/3.115] (defining "air pollution")

"Municipal solid waste landfill unit" or "MSWLF unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of non-containerized accumulations of solid, non-flowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, waste from a very small quantity generator, as defined in 35 Ill. Adm. Code 720.110, ~~waste~~ and industrial solid waste. Such a landfill may be publicly or privately owned or operated. a MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. [415 ILCS 5/3.285] But, a landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.
BOARD NOTE: Section 3.160 of the Act, from which this definition derives, uses the phrase "small quantity generator," which is a separate type of facility defined in 40 CFR 260.10. The exclusion that would allow disposal of waste from very small quantity generator in a MSWLF unit does not apply to waste from a small quantity generator waste. Use of "small quantity generator" would make the Illinois hazardous waste and MSWLF rules less stringent than their federal counterparts. The final sentence of corresponding 40 C.F.R. 258.2 provides as follows: "A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF Unit." A construction and demolition landfill is a type of landfill that does not exist in Illinois, so the Board omitted the reference to "construction and demolition landfill.". A landfill in Illinois that receives residential lead-based paint waste and no other type of household waste would be permitted as a chemical waste landfill or a putrescible waste landfill under Subpart C of 35 Ill. Adm. Code 811, as appropriate.

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

and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 USC 1251 et seq.), Section 12(f) of the Act ~~[415 ILCS 5/12(f)]~~, Subpart A of 35 Ill. Adm. Code 309, and 35 Ill. Adm. Code 310.

"NPDES permit" means a permit issued under the NPDES program.

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

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that had ~~has~~ not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that had ~~has~~ no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent was ~~is~~ increased after September 18, 1990.

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

"New MSWLF unit" means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993 for the first time. [415 ILCS 5/3.285]

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

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

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

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

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

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

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

"Potentially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Poz-O-Tec materials" means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

"Poz-O-Tec monofill" means a landfill in which solely Poz-O-Tec materials are placed for disposal.

"Professional engineer" means a person who has registered and obtained a seal pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

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

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

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

"Research, development, and demonstration permit" or "RD&D permit" means a permit issued pursuant to 35 Ill. Adm. Code 813.112.

"Residential lead-based paint waste" means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

"Resource Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 codified as 42 USC. §§ 6901 et seq.) as amended. [415 ILCS 5/3.425]

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

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

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

a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

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

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

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

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a three-inch sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act ~~[415 ILCS 5/39]~~ and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

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

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

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

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

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

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

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

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

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

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

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

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

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

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

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

"Slag" means the fused agglomerate that separates in the iron and steel production and floats on the surface of the molten metal.

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

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

"Special waste" means any industrial process waste, pollution control waste, or hazardous waste, except as determined pursuant to Section 22.9 of the Act ~~[415 ILCS 5/22.9]~~ and 35 Ill. Adm. Code 808. [415 ILCS 5/3.475]

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

"Steel slag" means slag.

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

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

"Uppermost aquifer" means the first geologic formation above or below the bottom elevation of a constructed liner or wastes, where no liner is present, that is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

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

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

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

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

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

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

(Source: Amended at 42 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 (2017) ~~(2016)~~ (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

40 CFR 3.3 (2017) ~~(2016)~~ (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10 (2017) ~~(2016)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000 (2017) ~~(2016)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 (2017) ~~(2016)~~ (Monitoring Requirements for Unregulated Contaminants), referenced in 35 Ill. Adm. Code 811.319 and 817.415.

40 CFR 258.10(a), (b), and (c) (2017) (Airport Safety), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.11(a) (2017) (Floodplains), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.12(a) (2017) (Wetlands), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.13 (2017) (Fault Areas), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.14 (2017) (Seismic Impact Zones), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.15 (2017) (Unstable Areas), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.16(a) (2017) (Closure of Existing Municipal Solid Waste Landfill Units), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.20 (2017) (Procedures for Excluding the Receipt of Hazardous Waste), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.23 (2017) (Explosive Gases Control), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.26 (2017) (Run-on/Run-off Control Systems), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.27 (2017) (Surface Water Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.28 (2017) (Liquids Restrictions), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.29(a) and (c) (2017) (Recordkeeping Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.60(c)(2) and (c)(3), (d), (f), (g), and (i) (2017) (Closure Criteria), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.61(a), (c)(3), and (d) (2017) (Post-Closure Care Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.70(a) (2017) ((Financial Assurance) Applicability and Effective Date), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.71(a)(2) (2017) (Financial Assurance for Closure), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.72(a)(1) and (a)(2) (2017) (Financial Assurance for Post-Closure Care), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.73 (2017) (Financial Assurance for Corrective Action), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.74 (2017) (Allowable Mechanisms (for Financial Assurance)), referenced in Appendix A to 35 Ill. Adm. Code 814.

Appendix I to 40 CFR 258 (2017) (Constituents for Detection Monitoring) ~~(2013)~~, referenced in 35 Ill. Adm. Code 811.319.

Appendix II to 40 CFR 258 (2017) (List of Hazardous Inorganic and Organic Constituents) ~~(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.

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" (Third Edition, Update IIIB November 2004) (document number 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 42 Ill. Reg. _____, effective _____)

Section 810.105 Electronic Reporting

a) Scope and Applicability.

1) The USEPA, the Board, or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:

A) To USEPA directly under Title 40 of the Code of Federal Regulations; or

B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.

2) Electronic reporting under this Section can begin only after USEPA has first done as follows:

A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive

documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or

B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.

3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) ~~of this Section~~:

A) Any document submitted via fascimile;

B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or

C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.

4) Upon USEPA conferring approval for the filing of any types of documents as electronic documents, as described in subsection (a)(2)(B) ~~of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 3.1 (2017), ~~as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 810.104.

c) Procedures for submission of electronic documents to USEPA. Except as provided in subsection (a)(3) ~~of this Section~~, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:

1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and

2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 (2017)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

d) Procedures for submission of electronic documents to the Board or the Agency.

1) The Board or the Agency may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act ~~[5 ILCS 100/5]~~.

2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of such approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act ~~[415 ILCS 5]~~ to accept documents filed electronically.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 (2017)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

e) Effects of submission of an electronic document.

1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.

3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) (2017)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

1) The Administrative Procedure Act [5 ILCS 100];

2) The Freedom of Information Act [5 ILCS 140];

3) The State Records Act [5 ILCS 160];

4) The Electronic Commerce Security Act [5 ILCS 175];

5) The Environmental Protection Act ~~[415 ILCS 5]~~;

6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) (2017) ~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

BOARD NOTE: Derived from 40 CFR 3 ~~, as added,~~ and ~~40 CFR~~ 258.29(d) (2017) ~~(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

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

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)

Section Numbers:	Proposed Actions:
811.103	Amendment
811.106	Amendment
811.107	Amendment
811.110	Amendment
811.302	Amendment
811.309	Amendment
811.310	Amendment
811.314	Amendment
811.319	Amendment
811.320	Amendment
811.321	Amendment
811.323	Amendment
811.326	Amendment
811.404	Amendment
811.704	Amendment
811.715	Amendment
811.716	Amendment
811.719	Amendment
811.Appendix A, Illustration A	Amendment
811.Appendix A, Illustration B	Amendment
811.Appendix A, Illustration C	Amendment
811.Appendix A, Illustration E	Amendment
811.Appendix B	Amendment
811.Appendix C	Amendment

4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 810 and 812, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 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 702. A comprehensive description is contained in

the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 811 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

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

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

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

SUBPART B: INERT WASTE LANDFILLS

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

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.

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. 7259, effective March 13, 2014; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section 811.103 Surface Water Drainage

a) Runoff <u>from</u> ~~From~~ Disturbed Areas.

1) Runoff from disturbed areas resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event that is discharged to waters of the State must meet the requirements of 35 Ill. Adm. Code 304.

2) All discharges of runoff from disturbed areas to waters of the State must be permitted by the Agency in accordance with 35 Ill. Adm. Code 309.

3) All treatment facilities must be equipped with bypass outlets designed to pass the peak flow of runoff from the 100-year, 24-hour precipitation event without damage to the treatment facilities or surrounding structures.

4) All surface water control structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover meeting the requirements of Section 811.205 or 811.322.

5) All discharge structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., bottom and sides, of the receiving stream channel.

b) Diversion of Runoff From Undisturbed Areas.

1) Runoff from undisturbed areas must be diverted around disturbed areas, unless the operator shows that it is impractical based on site-specific conditions or unless the Agency has issued a research, development, and demonstration (RD&D) permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.

2) Diversion facilities must be designed to prevent runoff from the 25-year, 24-hour precipitation event from entering disturbed areas, unless the Agency has issued an RD&D permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.

3) Runoff from undisturbed areas that becomes commingled with runoff from disturbed areas must be handled as runoff from disturbed areas and treated in accordance with subsection (a) ~~of this Section~~.

4) All diversion structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., the bottom and sides, of the diversion channel and downstream channels.

5) All diversion structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover that meets the requirements of Section 811.205 or 811.322.

BOARD NOTE: Those segments of subsections (b)(1) and (b)(2) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(a)(1) (2017) ~~(2004)~~.

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

Section 811.106 Daily Cover

a) A uniform layer of at least 0.15 meter (six inches) of clean soil material must be placed on all exposed waste by the end of each day of operation.

b) Alternative materials or procedures, including the removal of daily cover prior to additional waste placement, may be used, provided that the alternative materials or procedures achieve equivalent or superior performance to the requirements of subsection (a) ~~of this Section~~ in the following areas:

1) Prevention of blowing debris;

2) Minimization of access to the waste by vectors;

3) Minimization of the threat of fires at the open face; and

4) Minimization of odors.

c) Any alternative frequencies for cover requirements to those set forth in subsections (a) and (b) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection (c) must fulfill the following requirements:

1) They must consider the unique characteristics of small communities;

2) They must take into account climatic and hydrogeologic conditions; and

3) They must be protective of human health and the environment.

BOARD NOTE: This subsection (c) is derived from 40 CFR 258.21(d) (2017) ~~(2004)~~.

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

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 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.

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.

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.

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

g) Dust Control. 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]~~.

i) Vector Control. 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.

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.

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) (Revision 2, November 2004), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods;", incorporated by reference in 35 Ill. Adm. Code 810.104.

B) "Gas condensate" means the liquid generated as a result of gas recovery processes at the MSWLF unit.

BOARD NOTE: Subsections (m)(1) through (m)(3) ~~of this Section~~ are derived from 40 CFR 258.28 (2017) ~~(2013)~~. Subsection (m)(1)(C) ~~of this Section~~ relating to RD&D permits is derived from 40 CFR 258.4(a)(2) (2017) ~~(2013)~~.

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

Section 811.110 Closure and Written Closure Plan

a) The final slopes and contours must ~~shall~~ be designed to complement and blend with the surrounding topography of the proposed final land use of the area.

b) All drainage ways and swales must ~~shall~~ be designed to safely pass the runoff from the 100-year, 24-hour precipitation event without scouring or erosion.

c) The final configuration of the facility must ~~shall~~ be designed in a manner that minimizes the need for further maintenance.

d) Written closure plan

1) The operator must ~~shall~~ maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that fulfills the provisions of the Act, of this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan must ~~shall~~ fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.

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

3) In addition to the informational requirements of subsection 811.100(d)(1), an owner or operator of a MSWLF unit must ~~shall~~ include the following information in the written closure plan:

A) An estimate of the largest area of the MSWLF unit ever requiring a final cover, as required by Section 811.314, at any time during the active life; and

B) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility.

BOARD NOTE: Subsection 811.110(d)(3) is derived from 40 CFR 258.60(c)(1) and (c)(2) (2017) ~~(1992)~~.

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

1) 30 days after the date on which the MSWLF unit receives the final receipt of wastes; or

2) If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes.

3) The Agency must ~~shall~~ grant extensions beyond this one year deadline for beginning closure if the owner or operator demonstrates that:

A) The MSWLF unit has the capacity to receive additional wastes; and

B) The owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE: Subsection (e) is derived from 40 CFR 258.60(f) (2017) ~~(1992)~~.

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

1) Within 180 days of beginning closure, as specified in subsection (e) ~~of this Section~~.

2) The Agency must ~~shall~~ grant extension of the closure period if the owner or operator demonstrates that:

A) The closure will, of necessity, take longer than 180 days; and

B) The owner or operator has taken and will continue to take all necessary steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE: Subsection ~~(e)~~ (f) is derived from 40 CFR 258.60(g) (2017) ~~(1992)~~.

g) Deed notation.

1) Following closure of all MSWLF units at a site, the owner or operator must ~~shall~~ record a notation on the deed to the landfill facility property or some other instrument that is normally examined during title search. The owner or operator must ~~shall~~ place a copy of the instrument in the operating record, and must ~~shall~~ notify the Agency that the notation has been recorded and a copy has been placed in the operating record.

2) The notation on the deed or other instrument must be made in such a way that in perpetuity notify any potential purchaser of the property that:

A) The land has been used as a landfill facility; and

B) Its use is restricted pursuant to Section 811.111(d).

BOARD NOTE: Subsection (g) is derived from 40 CFR 258.60(i) (2017) ~~(1992)~~.

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

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.60(j) (2017) ~~(1992)~~.

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

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.302 Facility Location

a) No part of a unit may be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;

b) No part of a unit may be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 USC 300f et seq.), unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:

1) The stratum has a minimum thickness of 15.2 meters (50 feet);

2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than 1×10^{-7} centimeters per second, as determined by in situ borehole or equivalent tests;

3) There is no indication of continuous sand or silt seams, faults, fractures, or cracks within the stratum that may provide paths for migration; and

4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.

c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway must have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (eight feet) in height.

d) No part of a unit may be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.

e) The facility may not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (FAA) provides the operator with written permission, including technical justification, for a closer distance.

f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft must notify the affected airport and the FAA within seven days after filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE: ~~Subsection (f)~~ Subsections (e) and (f) ~~of this Section~~ is derived from 40 CFR 258.10 (2017) ~~(2003), as amended at 68 Fed. Reg. 59333 (October 15, 2003)~~. USEPA added the following information in a note appended to 40 CFR 258.10: A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act) (49 USC 44718(d)). Section 503 prohibits the "construction or establishment" of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports unless the FAA allows an exemption. The FAA administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

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

Section 811.309 Leachate Treatment and Disposal Systems

a) Leachate must ~~shall~~ be allowed to flow freely from the drainage and collection system. The operator is responsible for the operation of a leachate management system designed to handle all leachate as it drains from the collection system. The leachate management system must ~~shall~~ consist of any combination of storage, treatment, pretreatment, and disposal options designed and constructed in compliance with the requirements of this Section.

b) The leachate management system must ~~shall~~ consist of any combination of multiple treatment and storage structures, to allow the management and disposal of leachate during routine maintenance and repairs.

c) Standards for Onsite Treatment and Pretreatment

1) All onsite treatment or pretreatment systems must ~~shall~~ be considered part of the facility.

2) The onsite treatment or pretreatment system must ~~shall~~ be designed in accordance with the expected characteristics of the leachate. The design may include modifications to the system necessary to accommodate changing leachate characteristics.

3) The onsite treatment or pretreatment system must ~~shall~~ be designed to function for the entire design period.

4) All of the facility's unit operations, tanks, ponds, lagoons and basins must ~~shall~~ be designed and constructed with liners or containment structures to control seepage to groundwater.

5) All treated effluent discharged to waters of the State must ~~shall~~ meet the requirements of 35 Ill. Adm. Code 309.

6) The treatment system must ~~shall~~ be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.

d) Standards for Leachate Storage Systems

1) Except as otherwise provided in subsection (d)(6) ~~of this Section~~, the leachate storage facility must be able to store a minimum of at least five days' worth of accumulated leachate at the maximum generation rate used in designing the leachate drainage system in accordance with Section 811.307. The minimum storage capacity may be built up over time and in stages, so long as the capacity for five consecutive days of accumulated leachate is available at any time during the design period of the facility.

2) All leachate storage tanks must ~~shall~~ be equipped with secondary containment systems equivalent to the protection provided by a clay liner 0.61 meter (2 feet thick) having a permeability no greater than 10^{-7} centimeters per second.

3) Leachate storage systems must ~~shall~~ be fabricated from material compatible with the leachate expected to be generated and resistant to temperature extremes.

4) The leachate storage system must ~~shall~~ not cause or contribute to a malodor.

5) The leachate drainage and collection system must ~~shall~~ not be used for the purpose of storing leachate.

6) A facility may have less than five days' worth of storage capacity for accumulated leachate as required by subsection (d)(1) ~~of this Section~~, if the owner or operator of the facility demonstrates that multiple treatment, storage and disposal options in the facility's approved leachate management system developed in accordance with subsection (b) ~~of this Section~~ will achieve equivalent performance. Such options must ~~shall~~ consist of not less than one day's worth of storage capacity for accumulated leachate plus at least two alternative means of managing accumulated leachate through treatment or disposal, or both treatment and disposal, each of which means is capable of treating or disposing of all leachate generated at the maximum generation rate on a daily basis.

e) Standards for Discharge to an Offsite Treatment Works

1) Leachate may be discharged to an offsite treatment works that meets the following requirements:

A) All discharges of effluent from the treatment works must ~~shall~~ meet the requirements of 35 Ill. Adm. Code 309.

B) The treatment systems must ~~shall~~ be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.

C) No more than 50 percent of the average daily influent flow can be attributable to leachate from the solid waste disposal facility. Otherwise, the treatment works must ~~shall~~ be considered a part of the solid waste disposal facility.

2) The operator is responsible for securing permission from the offsite treatment works for authority to discharge to the treatment works.

3) All discharges to a treatment works must ~~shall~~ meet the requirements of 35 Ill. Adm. Code 310.

4) Pumps, meters, valves and monitoring stations that control and monitor the flow of leachate from the unit and which are under the control of the operator must ~~shall~~ be considered part of the facility and must ~~shall~~ be accessible to the operator at all times.

5) Leachate must ~~shall~~ be allowed to flow into the sewage system at all times; however, if access to the treatment works is restricted or anticipated to be restricted for longer than five days, then an alternative leachate management system must ~~shall~~ be constructed in accordance with subsection (c).

6) Where leachate is not directly discharged into a sewage system, the operator must ~~shall~~ provide storage capacity sufficient to transfer all leachate to an offsite treatment works. The storage system must ~~shall~~ meet the requirements of subsection (d).

f) Standards for Leachate Recycling Systems

1) Leachate recycling systems may be utilized only at permitted waste disposal units that meet the following requirements:

A) The unit must have a liner designed, constructed and maintained to meet the minimum standards of Section 811.306.

B) The unit must have a leachate collection system in place and operating in accordance with Section 811.307.

C) A gas management system, equipped with a mechanical device such as a compressor to withdraw gas, must be implemented to control odors and prevent migration of methane in accordance with Section 811.311.

D) The topography must be such that any accidental leachate runoff can be controlled by ditches, berms or other equivalent control means.

2) Leachate must ~~shall~~ not be recycled during precipitation events or in volumes large enough to cause runoff or surface seeps.

3) The amount of leachate added to the unit must ~~shall~~ not exceed the ability of the waste and cover soils to transmit leachate flow downward. All other leachate must ~~shall~~ be considered excess leachate, and a leachate management system capable of disposing of all excess leachate must be available.

4) The leachate storage and distribution system must ~~shall~~ be designed to avoid exposure of leachate to air unless aeration or functionally equivalent devices are utilized.

5) The distribution system must ~~shall~~ be designed to allow leachate to be evenly distributed beneath the surface over the recycle area.

6) Daily and intermediate cover must ~~shall~~ be permeable to the extent necessary to prevent the accumulation of water and formation of perched watertables and gas buildup; alternatively cover must ~~shall~~ be removed prior to additional waste placement.

7) Daily and intermediate cover must ~~shall~~ slope away from the perimeter of the site to minimize surface discharges.

g) Leachate Monitoring

1) Representative samples of leachate must ~~shall~~ be collected from each established leachate monitoring location in accordance with subsection (g)(5) and tested for the parameters referenced in subsections (g)(2)(G) and (g)(3)(D). The Agency may, by permit condition, require additional, or allow less, leachate sampling and testing as necessary to ensure compliance with this Section and Sections 811.312, 811.317, and 811.319.

2) Discharges of leachate from units that dispose of putrescible wastes must ~~shall~~ be tested for the following constituents prior to treatment or pretreatment:

A) Five day biochemical oxygen demand (BOD_5);

B) Chemical oxygen demand;

C) Total Suspended Solids;

D) Total Iron;

E) pH;

F) Any other constituents listed in the operator's National Pollution Discharge Elimination System (NPDES) discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and

G) All the monitoring parameters listed in Section 811.Appendix C, unless an alternate monitoring list has been approved by the Agency.

3) Discharges of leachate from units which dispose only chemical wastes must ~~shall~~ be monitored for constituents determined by the characteristics of the chemical waste to be disposed of in the unit. They must ~~shall~~ include, as a minimum:

A) pH;

B) Total Dissolved Solids;

C) Any other constituents listed in the operator's NPDES discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and

D) All the monitoring parameters listed in Section 811.Appendix C, unless an alternate monitoring list has been approved by the Agency.

4) A network of leachate monitoring locations must ~~shall~~ be established, capable of characterizing the leachate produced by the unit. Unless an alternate network has been approved by the Agency, the network of leachate monitoring locations must ~~shall~~ include:

A) At least four leachate monitoring locations; and

B) At least one leachate monitoring location for every 25 acres within the unit's waste boundaries.

5) Leachate monitoring must ~~shall~~ be performed at least once every six months and each established leachate monitoring location must ~~shall~~ be monitored at least once every two years.

h) Time of Operation of the Leachate Management System

1) The operator must ~~shall~~ collect and dispose of leachate for a minimum of five years after closure and thereafter until treatment is no longer necessary.

2) Treatment is no longer necessary if the leachate constituents do not exceed the wastewater effluent standards in 35 Ill. Adm. Code 304.124, 304.125, 304.126 and do not contain a BOD_5 concentration greater than 30 mg/L for six consecutive months.

3) Leachate collection at a MSWLF unit must ~~shall~~ be continued for a minimum period of 30 years after closure, except as otherwise provided by subsections (h)(4) and (h)(5).

4) The Agency may reduce the leachate collection 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.

5) The owner or operator of a MSWLF unit must ~~shall~~ petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure 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: Subsection (h) is derived from 40 CFR 258.61 (2017) ~~(1992)~~.

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

Section 811.310 Landfill Gas Monitoring

a) This Section applies to all units that dispose putrescible wastes.

b) Location and Design of Monitoring Wells.

1) Gas monitoring devices must be placed at intervals and elevations within the waste to provide a representative sampling of the composition and buildup of gases within the unit.

2) Gas monitoring devices must be placed around the unit at locations and elevations capable of detecting migrating gas from the ground surface to the lowest elevation of the liner system or the top elevation of the groundwater, whichever is higher.

3) A predictive gas flow model may be utilized to determine the optimum placement of monitoring points required for making observations and tracing the movement of gas.

4) Gas monitoring devices must be constructed from materials that will not react with or be corroded by the landfill gas.

5) Gas monitoring devices must be designed and constructed to measure pressure and allow collection of a representative sample of gas.

6) Gas monitoring devices must be constructed and maintained to minimize gas leakage.

7) The gas monitoring system must not interfere with the operation of the liner, leachate collection system, or delay the construction of the final cover system.

8) At least three ambient air monitoring locations must be chosen and samples must be taken no higher than 0.025 meter (1 inch) above the ground and 30.49m (100 feet) downwind from the edge of the unit or at the property boundary, whichever is closer to the unit.

c) Monitoring Frequency.

1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.

2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.

3) The sampling frequency may be reduced to yearly sampling intervals upon the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.

4) Monitoring must be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) ~~of this Section~~; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued if the following conditions have been met for at least one year:

   A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and

   B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) ~~of this Section~~.

5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.

6) The owner or operator of an MSWLF unit 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 care monitoring period for all of the following requirements:

   A) Inspection and maintenance (Section 811.111);

   B) Leachate collection (Section 811.309);

   C) Gas monitoring (Section 811.310); and

   D) Groundwater monitoring (Section 811.319).

BOARD NOTE: Those segments of this subsection (c) that relate to MSWLF units are derived from 40 CFR 258.61 (2017) ~~(2002)~~.

d) Parameters to be Monitored.

1) All below ground monitoring devices must be monitored for the following parameters at each sampling interval:

A) Methane;

B) Pressure;

C) Oxygen; and

D) Carbon dioxide.

2) Ambient air monitors must be sampled for methane only when the average wind velocity is less than eight kilometers (five miles) per hour at a minimum of three downwind locations 30.49 meters (100 feet) from the edge of the unit or the property boundary, whichever is closer to the unit.

3) All buildings within a facility must be monitored for methane by utilizing continuous detection devices located at likely points where methane might enter the building.

e) Any alternative frequencies for the monitoring requirement of subsection (c) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative monitoring frequencies established under this subsection (e) must fulfill the following requirements:

1) They must consider the unique characteristics of small communities;

2) They must take into account climatic and hydrogeologic conditions; and

3) They must be protective of human health and the environment.

BOARD NOTE: This subsection (e) is derived from 40 CFR 258.23(e) (2017) ~~(2004)~~.

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

Section 811.314 Final Cover System

a) The unit must be covered by a final cover consisting of a low permeability layer overlain by a final protective layer constructed in accordance with the requirements of this Section, unless the Agency has issued an RD&D permit that allows the use of an innovative final cover technology pursuant to an adjusted standard issued under 35 Ill. Adm. Code 813.112(b), and that permit is in effect.

b) Standards for the Low Permeability Layer.

1) Not later than 60 days after placement of the final lift of solid waste, a low permeability layer must be constructed.

2) The low permeability layer must cover the entire unit and connect with the liner system.

3) The low permeability layer must consist of any one of the following:

A) A compacted earth layer constructed in accordance with the following standards:

i) The minimum allowable thickness must be 0.91 meter (3 feet); and

ii) The layer must be compacted to achieve a permeability of 1 $\times 10^{-7}$ centimeters per second and minimize void spaces.

iii) Alternative specifications may be utilized provided that the performance of the low permeability layer is equal to or superior to the performance of a layer meeting the requirements of subsections (b)(3)(A)(i) and (b)(3)(A)(ii) ~~of this Section~~.

B) A geomembrane constructed in accordance with the following standards:

i) The geomembrane must provide performance equal or superior to the compacted earth layer described in subsection (b)(3)(A)~~ of this Section~~.

ii) The geomembrane must have strength to withstand the normal stresses imposed by the waste stabilization process.

iii) The geomembrane must be placed over a prepared base free from sharp objects and other materials that may cause damage.

C) Any other low permeability layer construction techniques or materials, provided that they provide equivalent or superior performance to the requirements of this subsection (b).

4) For an MSWLF unit, subsection (b)(3) ~~of this Section~~ notwithstanding, if the bottom liner system permeability is lower than 1×10^{-7} cm/sec, the permeability of the low permeability layer of the final cover system must be less than or equal to the permeability of the bottom liner system.

c) Standards for the Final Protective Layer.

1) The final protective layer must cover the entire low permeability layer.

2) The thickness of the final protective layer must be sufficient to protect the low permeability layer from freezing and minimize root penetration of the low permeability layer, but must not be less than 0.91 meter (3 feet).

3) The final protective layer must consist of soil material capable of supporting vegetation.

4) The final protective layer must be placed as soon as possible after placement of the low permeability layer to prevent desiccation, cracking, freezing, or other damage to the low permeability layer.

d) Any alternative requirements for the infiltration barrier in subsection (b) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection must fulfill the following requirements:

1) They must consider the unique characteristics of small communities;

2) They must take into account climatic and hydrogeologic conditions; and

3) They must be protective of human health and the environment.

BOARD NOTE: Subsection (b)(4) ~~of this Section~~ is derived from 40 CFR 258.60(a) (2017) ~~(2004)~~. Subsection (d) ~~of this Section~~ is derived from 40 CFR 258.60(b)(3) (2017) ~~(2004)~~. Those segments of subsection (a) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(b) (2017) ~~(2004)~~.

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

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:

1) Monitoring Schedule and Frequency.

A) The monitoring period 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 must continue for a minimum period of 15 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 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 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 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 of this Section, the source 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, 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 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 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 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 must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the 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), (a)(1)(C), (a)(1)(D), and (a)(1)(E) ~~of this Section~~ are derived from 40 CFR 258.61 (2017) ~~(2013)~~.

2) Criteria for Choosing Constituents to be Monitored.

A) The operator must monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents 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)
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 after the effective date of this Part, and monitor each new well within the three months after its establishment. The monitoring required by this subsection (a)(3) must be for a broad range of organic chemical contaminants in accordance with the following procedures:

A) The analysis 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 and appendix I to 40 CFR 258 (2017) ~~(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-Dicloroethylene
1,2-Dichloropropane
1,3-Dichloropropane
2,2-Dichloropropane
1,1-Dichloropropene
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-Trichlorbenzene
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 must monitor each well in accordance with subsection (a)(3)(A) ~~of this Section~~.

C) The operator of a MSWLF unit 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) (2017) ~~(2013)~~.

4) Confirmation of Monitored Increase.

A) The confirmation procedures of this subsection 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 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 must include the following:

i) The operator must verify any observed increase by taking additional samples within 90 days after the initial sampling event and ensure that the samples and sampling protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with Section 811.320(e), so as to confirm the observed increase. The operator must notify the Agency of any confirmed increase before the end of the next business day following the confirmation.

ii) The operator must determine the source of any confirmed increase, which may include, but must not be limited to, natural phenomena, sampling or analysis errors, or an offsite source.

iii) The operator 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 Subpart B of 35 Ill. Adm. Code 813.

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

1) The assessment monitoring 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 must comply with the additional requirements prescribed in subsection (b)(5) ~~of this Section~~. The assessment monitoring 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 must file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813 within 180 days after the original sampling event. The assessment monitoring program 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 of Section 811.320 and is attributable to the solid waste disposal facility, then the operator 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 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 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)(l) ~~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, 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) (2017) ~~(2013)~~.

B) Within 14 days after obtaining the results of sampling required under subsection (b)(5)(A) ~~of this Section~~, the owner or operator must do as follows:

i) The owner or operator must place a notice in the operating record identifying the constituents that have been detected; and

ii) 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)(l) (2017) ~~(2013)~~.

C) The owner or operator 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) (2017) ~~(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, 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 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) (2017) ~~(2012)~~.

E) The owner or operator may request the Agency to delete any of the 40 CFR 258 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) (2017) ~~(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 must do as follows:

i) 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) 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

iii) 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 (g)(1)(iii) (2017) ~~(2012)~~.

G) If the concentrations of all constituents in appendix II to 40 CFR 258, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 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 must notify the Agency of this finding and may stop monitoring the appendix II to 40 CFR 258 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) (2017) ~~(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~~ 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 requirements apply:

1) The operator 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 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 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, must conduct remedial action in accordance with this subsection (d).

1) The operator must submit plans for the remedial action to the Agency. Such plans and all supporting information including data collected during the assessment monitoring 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 must submit this information as an application for significant modification to the permit;

3) The operator 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 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

D) Any other equivalent technique which will prevent further contamination of groundwater.

5) Termination of the Remedial Action Program.

A) The remedial action program 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 must submit to the Agency all information collected under subsection (d)(5)(A) ~~of this Section~~. If the facility is permitted then the operator must submit this information as a significant modification of the permit.

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

Section 811.320 Groundwater Quality Standards

a) Applicable Groundwater Quality Standards

1) Groundwater quality must ~~shall~~ be maintained at each constituent's background concentration, at or beyond the zone of attenuation. The applicable groundwater quality standard established for any constituent must ~~shall~~ be:

A) The background concentration; or

B) The Board established standard adjusted by the Board in accordance with the justification procedure of subsection (b).

2) Any statistically significant increase above an applicable groundwater quality standard established pursuant to subsection (a)(1) that is attributable to the facility and which occurs at or beyond the zone of attenuation within 100 years after closure of the last unit accepting waste within such a facility must ~~shall~~ constitute a violation.

3) For the purposes of this Part:

A) "Background concentration" means that concentration of a constituent that is established as the background in accordance with subsection (d); and

B) "Board established standard" is the concentration of a constituent adopted by the Board as a groundwater quality standard adopted by the Board pursuant to Section 14.4 of the Act or Section 8 of the Illinois Groundwater Protection Act.

b) Justification for Adjusted Groundwater Quality Standards

1) An operator may petition the Board for an adjusted groundwater quality standard in accordance with the procedures specified in Section 28.1 of the Act and 35 Ill. Adm. Code 104.400.Subpart D.

2) For groundwater which contains naturally occurring constituents which meet the applicable requirements of 35 Ill. Adm. Code 620.410, 620.420, 620.430, or 620.440 the Board will specify adjusted groundwater quality standards no greater than those of 35 Ill. Adm. Code 620.410, 620.420,

620.430 or 620.440, respectively, upon a demonstration by the operator that:

A) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for such water;

B) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards ; and

C) All technically feasible and economically reasonable methods are being used to prevent the degradation of the groundwater quality.

3) Notwithstanding subsection (b)(2), in no case must ~~shall~~ the Board specify adjusted groundwater quality standards for a MSWLF unit greater than the following levels:

Chemical	Concentration (mg/ℓ) ~~(mg/l)~~
Arsenic	0.05
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10
Selenium	0.01

Silver	0.05
Toxaphene	0.005
l,l,l-Trichloromethane	0.2
Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl Chloride	0.002

4) For groundwater which contains naturally occurring constituents which do not meet the standards of 35 Ill. Adm. Code 620.410, 620.420, 620.430 or 620.440, the Board will specify adjusted groundwater quality standards, upon a demonstration by the operator that:

A) The groundwater does not presently serve as a source of drinking water;

B) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for such waters;

C) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards; and

D) The groundwater cannot presently, and will not in the future, serve as a source of drinking water because:

i) It is impossible to remove water in usable quantities;

ii) The groundwater is situated at a depth or location such that recovery of water for drinking purposes is not technologically feasible or economically reasonable;

iii) The groundwater is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption;

iv) The total dissolved solids content of the groundwater is more than 3,000 (mg/ℓ) ~~(mg/l)~~ and that water will not be used to serve a public water supply system; or

v) The total dissolved solids content of the groundwater exceeds 10,000 (mg/ℓ) ~~(mg/l)~~.

c) Determination of the Zone of Attenuation

1) The zone of attenuation, within which concentrations of constituents in leachate discharged from the unit may exceed the applicable groundwater quality standard of this Section, is a volume bounded by a vertical plane at the property boundary or 100 feet from the edge of the unit, whichever is less, extending from the ground surface to the bottom of the uppermost aquifer and excluding the volume occupied by the waste.

2) Zones of attenuation must ~~shall~~ not extend to the annual high water mark of navigable surface waters.

3) Overlapping zones of attenuation from units within a single facility may be combined into a single zone for the purposes of establishing a monitoring network.

d) Establishment of Background Concentrations

1) The initial monitoring to determine background concentrations must ~~shall~~ commence during the hydrogeological assessment required by Section 811.315. The background concentrations for those parameters identified in Sections 811.315(e)(1)(G) and 811.319(a)(2) and (a)(3) must ~~shall~~ be established based on consecutive quarterly sampling of wells for a minimum of one year, monitored in accordance with the requirements of subsections (d)(2), (d)(3) and (d)(4). Non-consecutive data may be considered by the Agency, if only one data point from a quarterly event is missing, and it can be demonstrated that the remaining data set is representative of consecutive data in terms of any seasonal or temporal variation. Statistical tests and procedures must ~~shall~~ be employed, in accordance with subsection (e), depending on the number, type and frequency of samples collected from the wells, to establish the background concentrations.

2) Adjustments to the background concentrations must ~~shall~~ be made if changes in the concentrations of constituents observed in background

wells over time are determined, in accordance with subsection (e), to be statistically significant, and due to natural temporal or spatial variability or due to an off-site source not associated with the landfill or the landfill activities. Such adjustments may be conducted no more frequently than once every two years during the operation of a facility and modified subject to approval by the Agency. Non-consecutive data may be used for an adjustment upon Agency approval. Adjustments to the background concentration must ~~shall~~ not be initiated prior to November 27, 2009 unless required by the Agency.

3) Background concentrations determined in accordance with this subsection must ~~shall~~ be used for the purposes of establishing groundwater quality standards, in accordance with subsection (a). The operator must ~~shall~~ prepare a list of the background concentrations established in accordance with this subsection. The operator must ~~shall~~ maintain such a list at the facility, must ~~shall~~ submit a copy of the list to the Agency for establishing standards in accordance with subsection (a), and must ~~shall~~ provide updates to the list within ten days of any change to the list.

4) A network of monitoring wells must ~~shall~~ be established upgradient from the unit, with respect to groundwater flow, in accordance with the following standards, in order to determine the background concentrations of constituents in the groundwater:

A) The wells must ~~shall~~ be located at such a distance that discharges of contaminants from the unit will not be detectable;

B) The wells must ~~shall~~ be sampled at the same frequency as other monitoring points to provide continuous background concentration data, throughout the monitoring period; and

C) The wells must ~~shall~~ be located at several depths to provide data on the spatial variability.

5) A determination of background concentrations may include the sampling of wells that are not hydraulically upgradient of the waste unit where:

A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient of the waste; and

B) Sampling at other wells will provide an indication of background concentrations that is representative of that which would have been provided by upgradient wells.

6) If background concentrations cannot be determined on site, then alternative background concentrations may be determined from actual monitoring data from the aquifer of concern, which includes, but is not limited to, data from another landfill site that overlies the same aquifer.

e) Statistical Analysis of Groundwater Monitoring Data

1) Statistical tests must ~~shall~~ be used to analyze groundwater monitoring data. One or more of the normal theory statistical tests must ~~shall~~ be chosen first for analyzing the data set or transformations of the data set. Where such normal theory tests are demonstrated to be inappropriate, tests listed in subsection (e)(4) must ~~shall~~ be used. The level of significance (Type I error level) must ~~shall~~ be no less than 0.01, for individual well comparisons, and no less than 0.05, for multiple well comparisons. The statistical analysis must ~~shall~~ include, but not be limited to, the accounting of data below the detection limit of the analytical method used, the establishment of background concentrations and the determination of whether statistically significant changes have occurred in:

A) The concentration of any chemical constituent with respect to the background concentration or maximum allowable predicted concentration; and

B) The established background concentration of any chemical constituents over time.

2) The statistical test or tests used must ~~shall~~ be based upon the sampling and collection protocol of Sections 811.318 and 811.319.

3) Monitored data that are below the level of detection must ~~shall~~ be reported as not detected (ND). The level of detection for each constituent must ~~shall~~ be the practical quantitation limit (PQL), and must ~~shall~~ be the lowest concentration that is protective of human health and the environment, and can be achieved within specified limits of precision and accuracy during routine laboratory operating conditions. In no case, must ~~shall~~ the PQL be established above the level that the Board has established for a groundwater quality standard under the Illinois Groundwater Protection Act [415 ILCS 55]. The following procedures must ~~shall~~ be used to

analyze such data, unless an alternative procedure in accordance with subsection (e)(4), is shown to be applicable:

A) Where the percentage of nondetects in the data base used is less than 15 percent, the operator must ~~shall~~ replace NDs with the PQL divided by two, then proceed with the use of one or more of the Normal Theory statistical tests;

B) Where the percentage of nondetects in the data base used is between 15 and 50 percent, and the data are normally distributed, the operator must ~~shall~~ use Cohen's or Aitchison's adjustment to the sample mean and standard deviation, followed by an applicable statistical procedure;

C) Where the percentage of nondetects in the database used is above 50 percent, then the owner or operator must ~~shall~~ use an alternative procedure in accordance with subsection (e)(4).

4) Nonparametric statistical tests or any other statistical test if it is demonstrated to meet the requirements of 35 Ill. Adm. Code 724.197(i).

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 258.40 Table 1 (2017). ~~(1992)~~.

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

Section 811.321 Waste Placement

a) Phasing of Operations

1) Waste disposal operations must ~~shall~~ move from the lowest portions of the unit to the highest portions. Except as provided in subsection (a)(2), the placement of waste must ~~shall~~ begin in the lowest part of the active face of the unit, located in the part of the facility most downgradient, with respect to groundwater flow.

2) The operator may dispose of wastes in areas other than those specified in subsection (a)(1) only under any of the following conditions:

A) Climatic conditions, such as wind and precipitation, are such that the placement of waste in the bottom of the unit would cause water pollution, litter or damage to any part of the liner;

B) The topography of the land surrounding the unit makes the procedure of subsection (a)(1) environmentally unsound, for example, because steep slopes surround the unit; or

C) When groundwater monitoring wells, constructed in accordance with the requirements of Section 811.319, are placed 50 feet, or less, downgradient from the filled portions of the unit.

b) Initial Waste Placement

1) Construction, compaction and earth moving equipment must ~~shall~~ be prohibited from operating directly on the leachate collection piping system until a minimum of five feet of waste has been mounded over the system.

2) Construction, compaction and earth moving equipment must ~~shall~~ be prohibited from operating directly on the leachate drainage blanket. Waste disposal operations must ~~shall~~ begin at the edge of the drainage layer by carefully pushing waste out over the drainage layer.

3) An initial layer of waste, a minimum of five feet thick, or, alternatively, a temporary protective layer of other material suitable to prevent the compacted earth liner from freezing, must ~~shall~~ be placed over the entire drainage blanket prior to the onset of weather conditions that may cause the compacted earth liner to freeze, except as provided in subsection (b)(4) ~~of this Section~~.

4) Waste must ~~shall~~ not be placed over areas that are subject to freezing conditions until the liner has been certified or recertified by the CQA officer designated pursuant to Section 811.502 and reconstructed (if necessary) to meet the requirements of Section 811.306.

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

Section 811.323 Load Checking Program

a) The operator must ~~shall~~ implement a load checking program that meets the requirements of this Section, for detecting and discouraging attempts to dispose regulated hazardous wastes at the facility. For purposes of this Section and Section 811.406, "regulated hazardous waste ~~wastes~~" means a solid waste that is a hazardous waste, as defined in 35 Ill. Adm. Code 721.103, that is not excluded from regulation as hazardous waste under 35 Ill. Adm. Code 721.104(b) or which was not generated by a VSQG, as defined in 35 Ill. Adm. Code 720.110 ~~are~~

~~wastes defined as such under RCRA, at 35 Ill. Adm. Code 721, and subject to regulations under 35 Ill. Adm. Code: Subtitle G.~~

b) In addition to checking for hazardous waste in accordance with subsection (a), the load checking program at a MSWLF unit must ~~shall~~ include waste load inspection for detecting and discouraging attempts to dispose "polychlorinated biphenyl wastes" as defined in 40 CFR 761.3 (2017) ~~(1992)~~.

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

c) The load checking program must ~~shall~~ consist of, at a minimum, the following components:

1) Random Inspections. ~~inspections~~

A) An inspector designated by the facility must ~~shall~~ examine at least three random loads of solid waste delivered to the landfill on a random day each week. The drivers randomly selected by the inspector must ~~shall~~ be directed to discharge their loads at a separate, designated location within the facility. The facility must ~~shall~~ conduct a detailed inspection of the discharged material for any regulated hazardous or other unacceptable wastes that may be present. Cameras or other devices may be used to record the visible contents of solid waste shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

B) If regulated hazardous wastes or other unacceptable wastes are suspected, the facility must ~~shall~~ communicate with the generator, hauler or other party responsible for shipping the waste to the facility to determine the identity of the waste.

2) Recording inspection results. ~~inspection results~~ Information and observations derived from each random inspection must be recorded in writing and retained at the facility for at least three years. The recorded information must include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record must shall be signed by both the inspector and the driver.

~~Information and observations derived from each random inspection shall be recorded in writing and retained at the facility for at least three years. The recorded information shall include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record shall be signed by both the inspector and the driver.~~

3) Training. The solid waste management facility must train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program must shall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

~~The solid waste management facility shall train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program shall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).~~

d) Handling Regulated Hazardous Wastes.

1) If any regulated hazardous wastes are identified by random load checking, or are otherwise discovered to be improperly deposited at the facility, the facility must ~~shall~~ promptly notify the Agency, the person responsible for shipping the wastes to the landfill, and the generator of the wastes, if known. Waste loads identical to the regulated hazardous waste identified through the random load checking which have not yet been deposited in the landfill must ~~shall~~ not be accepted. The area where the wastes are deposited must ~~shall~~ immediately be cordoned off from public access. The solid waste management facility must ~~shall~~ assure the cleanup, transportation and disposal of the waste at a permitted hazardous waste management facility.

2) The party responsible for transporting the waste to the solid waste management facility must ~~shall~~ be responsible for the costs of such proper cleanup, transportation and disposal.

3) Subsequent shipments by persons or sources found or suspected to be previously responsible for shipping regulated hazardous waste must ~~shall~~ be subject to the following special precautionary measures prior to the solid waste management facility accepting wastes. The operator must ~~shall~~ use precautionary measures such as questioning the driver concerning the waste contents prior to discharge and visual inspection during the discharge of the load at the working face or elsewhere.

BOARD NOTE: Subsections (a) through (c) are derived from 40 CFR 258.20 (2017).

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

Section 811.326 Implementation of the corrective action program at MSWLF Units

a) Based on the schedule established pursuant to Section 811.325(d) for initiation and completion of corrective action, the owner or operator must fulfill the following requirements:

1) It must establish and implement a corrective action groundwater monitoring program that fulfills the following requirements:

A) At a minimum, the program must meet the requirements of an assessment monitoring program pursuant to Section 811.319(b);

B) The program must indicate the effectiveness of the remedy; and

C) The program must demonstrate compliance with groundwater protection standards pursuant to subsection (e) ~~of this Section~~.

2) It must implement the remedy selected pursuant to Section 811.325.

3) It must take any interim measures necessary to ensure the adequate protection of human health and the environment. The interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 811.325. The owner or operator must consider the following factors in determining whether interim measures are necessary:

A) The time required to develop and implement a final remedy;

B) Any actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

C) Any actual or potential contamination of drinking water supplies or sensitive ecosystems;

D) Any further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

E) The weather conditions that may cause hazardous constituents to migrate or be released;

F) Any risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and

G) Any other situations that may pose threats to human health and the environment.

b) If an owner or operator determines, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Section 811.325(b) are not being achieved through the remedy selected, the owner or operator must fulfill the following requirements:

1) It must implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination pursuant to subsection (c) ~~of this Section~~.

2) It must submit to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1) ~~of this Section~~, an application for a significant modification to the permit describing the alternative methods or techniques and how they meet the standards of Section 811.325(b).

c) If the owner or operator determines that compliance with the requirements of Section 811.325(b) cannot be practically achieved with any currently available methods, the owner or operator must fulfill the following requirements:

1) It must obtain the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements pursuant to Section 811.325(b) cannot be practically achieved with any currently available methods.

2) It must implement alternative measures to control exposure of humans or the environment to residual contamination, as necessary toadequately protect human health and the environment.

3) It must implement alternative measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that fulfill the following requirements:

A) The measures are technically practicable; and

B) The measures are consistent with the overall objective of the remedy.

4) It must submit to the Agency, prior to implementing the alternative measures in accordance with subsection (c) ~~of this Section~~, an application for a significant modification to the permit justifying the alternative measures.

5) For purposes of this Section, a "qualified groundwater scientist" is a scientist or an engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to

make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

d) All solid wastes that are managed pursuant to pursuant to Section 811.325 or subsection (a)(3) ~~of this Section~~ must be managed by the owner or operator in a manner that fulfills the following requirements:

1) It adequately protects human health and the environment; and

2) It complies with applicable requirements of Part 811.

e) Remedies selected pursuant to Section 811.325 must be considered complete when the following requirements are fulfilled:

1) The owner or operator complies with the groundwater quality standards established pursuant to Section 811.320 at all points within the plume of contamination that lie beyond the zone of attenuation established pursuant to Section 811.320;

2) Compliance with the groundwater quality standards established pursuant to Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program pursuant to Section 811.319(b) have not exceeded the groundwater quality standards for a period of three consecutive years using the statistical procedures and performance standards in Section 811.320(e). The Agency may specify an alternative time period during which the owner or operator must demonstrate compliance with the groundwater quality standard(s). The Agency must specify such an alternative time period by considering the following factors:

A) The extent and concentration of the releases;

B) The behavior characteristics of the hazardous constituents in the groundwater;

C) The accuracy of monitoring or modeling techniques, including any seasonal, meterological, or other environmental variabilities that may affect the accuracy; and

D) The characteristics of the groundwater; and

3) All actions required to complete the remedy have been satisfied.

f) Within 14 days after the completion of the remedy, the owner or operator must submit to the Agency an application for a significant modification of the permit including a certification that the remedy has been completed in compliance with the requirements of subsection (e) ~~of this Section~~. The certification must be signed by the owner or operator and by a qualified groundwater scientist.

g) Upon Agency review and approval of the certification that the corrective action has been completed, in accordance with subsection (e) ~~of this Section~~, the Agency must release the owner or operator from the financial assurance requirements for corrective action pursuant to Subpart G ~~of this Part~~.

BOARD NOTE: Requirements of this Section are derived from 40 CFR 258.58 (2017) ~~(2005)~~.

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

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section 811.404 Identification Record

a) Each special waste disposed of at a facility (including special wastes generated at the facility) must ~~shall~~ be accompanied by a special waste profile identification sheet, from the waste generator, that certifies the following:

1) The generator's name and address;

2) The transporter's name and telephone number;

3) The name of waste;

4) The process generating the waste;

5) Physical characteristics of waste (e.g., color, odor, solid or liquid, flash point);

6) The chemical composition of the waste;

7) The metals content of the waste;

8) Hazardous characteristics (including identification of wastes deemed hazardous by the United States Environmental Protection Agency or the state);

9) Presence of polychlorinated ~~polychorinated~~ biphenyls (PCB)s or 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCDD); and

10) Any other information, such as the result of any test carried out in accordance with Section 811.202, that can be used to determine:

A) Whether the special waste is regulated as a hazardous waste, as defined at 35 Ill. Adm. Code 721;

B) Whether the special waste is of a type that is permitted for or has been classified, in accordance with 35 Ill. Adm. Code 809, for storage, treatment, or disposal at the facility; and

C) Whether the method of storage, treatment, or disposal, using the methods available at the facility, is appropriate for the waste.

b) Special waste recertification

Each subsequent shipment of a special waste from the same generator must be accompanied by a transportation record in accordance with 35 Ill. Adm. Code 811.403(b), a copy of the original special waste profile identification sheet, and either:

1) A special waste recertification by the generator describing whether there have been changes in the following:

A) Laboratory analysis (copies to be attached);

B) Raw material in the waste-generating process;

C) The waste-generating process itself;

D) The physical or hazardous characteristics of the waste; and

E) New information on the human health effects of exposure to the waste; or

2) Certification indicating that any change in the physical or hazardous characteristic of the waste is not sufficient to require a new special waste profile.

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

Section 811.704 Closure and Post-Closure Care and Corrective Action Cost Estimates

a) Written cost estimate. The owner or operator must ~~shall~~ have a written estimate of the cost of closure of all parts of the facility where wastes have been deposited in accordance with the requirements of this Part; the written closure plan, required by Section 811.110 and 35 Ill. Adm. Code 812.114; and the cost of post-closure care and plans, required by this Part and the written post-closure care plans required by 35 Ill. Adm. Code 812.115. The cost estimate is the total cost for closure and post-closure care.

b) The owner or operator must ~~shall~~ revise the cost estimate whenever a change in the closure plan or post-closure care plan increases the cost estimate.

c) The cost estimate must be based on the steps necessary for the premature final closure of the facility on the assumed closure date.

d) The cost estimate must be based on the assumption that the Agency will contract with a third party to implement the closure plan.

e) The cost estimate may not be reduced by allowance for the salvage value of equipment or waste, for the resale value of land, or for the sale of landfill gas.

f) The cost estimate must, at a minimum, include all costs for all activities necessary to close the facility in accordance with all requirements of this Part.

g) (Blank)

h) The post-closure care cost estimate must, at a minimum, be based on the following elements in the post-closure care plan:

1) Groundwater monitoring, based on the number of monitoring points and parameters and the frequency of sampling specified in the permit.

2) The annual Cost of Cover Placement and Stabilization, including an estimate of the annual residual settlement and erosion control and the cost of mowing.

3) Alternative Landfill Gas Disposal. If landfill gas is transported to an off-site processing system, then the owner or operator must ~~shall~~ include in the cost estimate the costs necessary to operate an onsite gas disposal system,

should access to the off-site facility become unavailable. The cost estimate must include the following information: installation, operation, maintenance and monitoring of an on-site gas disposal system.

4) Cost Estimates Beyond the Design Period. When a facility must extend the post-closure care period beyond the applicable design period, the cost estimate must be based upon such additional time and the care activities occurring during that time.

i) This Section does not authorize the Agency to require the owner or operator to perform any of the indicated activities upon which cost estimates are to be based; however, if the site permit requires a closure activity, the owner or operator must ~~shall~~ include the cost of that activity in the cost estimate.

j) Once the owner or operator has completed an activity, the owner or operator may file an application for significant permit modification pursuant to 35 Ill. Adm. Code 813.201 indicating that the activity has been completed, and zeroing that element of the cost estimate.

k) Cost estimate for corrective action at MSWLF units.

1) An owner or operator of a MSWLF unit required to undertake a corrective action program pursuant to Section 811.326 must ~~shall~~ have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the Section 811.326. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator must ~~shall~~ notify the Agency that the estimate has been placed in the operating record.

2) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Section 811.326(f).

3) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.

4) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator must ~~shall~~ notify the Agency that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.

5) The owner or operator of each MSWLF unit required to undertake a corrective action program under Section 811.326 must ~~shall~~ establish, in accordance with Section 811.706, financial assurance for the most recent corrective action program.

6) The owner or operator must ~~shall~~ provide continuous coverage for corrective action until released from the financial assurance requirements for corrective action by demonstrating compliance with Section 811.326 (f) and (g).

BOARD NOTE: Subsection (k) is derived from 40 CFR 258.73 (2017) ~~(1992)~~.

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

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 incorporated by reference in 35 Ill. Adm. Code 810.104.

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

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

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

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

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

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

b) Information to be Filed. 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-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;

ii) Tangible net worth at least six times the current cost estimate;

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:

A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I;

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 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

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 42 Ill. Reg. _____, effective _____)

Section 811.716 Local Government Financial Test

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

a) Financial Component.

1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) ~~of this Section~~, as applicable:

A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or

B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:

i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.

2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

3) A unit of local government is not eligible to assure its obligations 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 not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

"Total expenditures" include all expenditures excluding capital outlays and debt repayment.

b) Public Notice Component.

1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.

2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.

3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.

4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.

5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.

c) Recordkeeping and Reporting Requirements.

1) The unit of local government owner or operator must place the following items in the facility's operating record:

A) A letter signed by the unit of local government's chief financial officer that provides the following information:

i) It lists all the current cost estimates covered by a financial test, as described in subsection (d)~~ of this Section~~;

ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3)~~ of this Section~~; and

iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d)~~ of this Section~~.

B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B)~~ of this Section~~, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D)~~ of this Section~~. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings.

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 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

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 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) (2017) ~~(2013)~~.

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

Section 811.719 Corporate Financial Test

An MSWLF owner or operator that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

a) Financial component.

1) The owner or operator must satisfy one of the following three conditions:

A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

B) A ratio of less than 1.5 comparing total liabilities to net worth; or

C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

2) The tangible net worth of the owner or operator must be greater than:

A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus $10 million except as provided in subsection (a)(2)(B) ~~of this Section~~.

B) $10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.

3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test, as described in subsection (c) ~~of this Section~~.

b) Recordkeeping and reporting requirements.

1) The owner or operator must place the following items into the facility's operating record:

A) A letter signed by the owner's or operator's chief financial officer that includes the following:

i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities pursuant to this Part; cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 730, if applicable; cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280, if applicable; cost estimates required for PCB storage facilities pursuant to 40 CFR 761,

if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725, if applicable; and

ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) ~~of this Section~~ and subsections ~~subsection~~ (a)(2) and (a)(3) ~~of this Section~~.

B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters 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 alternative financial assurance that meets the requirements of this Section.

C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) ~~of this Section~~ that are different from data in the audited financial statements referred to in subsection (b)(1)(B) ~~of this Section~~ or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) ~~of this Section~~, then the letter must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least $10 million plus the amount of any guarantees provided.

2) An owner or operator must place the items specified in subsection (b)(1) ~~of this Section~~ in the operating record and notify the Agency in writing that these items have been placed in the operating record before the initial receipt of waste ~~or before February 17, 1999, whichever is later~~, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.

BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later~~.~~". The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

3) After the initial placement of items specified in subsection (b)(1) ~~of this Section~~ in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency must provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1) ~~of this Section~~.

4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:

A) It substitutes alternative financial assurance, as specified in this Subpart G, that is not subject to these recordkeeping and reporting requirements; or

B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.

5) If the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator must also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance. The owner or operator must submit evidence of the alternative financial assurance to the Agency.

6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b) ~~of this Section~~ at any time it has a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) ~~of this Section~~. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must provide alternative financial assurance that meets the requirements of this Subpart G.

c) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator must include cost estimates required for municipal solid waste management facilities pursuant to this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities pursuant to 35 Ill. Adm. Code 730; 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 or 725.

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

Section 811.APPENDIX A ~~**811.Appendix A**~~ **Financial Assurance Forms**
Section 811.ILLUSTRATION A Trust Agreement

TRUST AGREEMENT

Trust Fund Number _____

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Trust Agreement, the "Agreement", entered into as of the _____ day of _____, by and between _____, a _____, the "Grantor", and _____, the "Trustee".

Whereas, Section 21.1 of the Environmental Protection Act, "Act", prohibits any person from conducting any waste disposal operation unless such person has posted with the Illinois Environmental Protection Agency, "IEPA", a performance bond or other security for the purpose of insuring closure of the site and post-closure care or corrective action in accordance with the Act and Illinois Pollution Control Board, "IPCB", rules.

Whereas, the IPCB has established certain regulations applicable to the Grantor, requiring that an operator of a waste disposal site provide assurance that funds will be available when needed for closure and/or post-closure care or corrective action of the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity that has authority to act as a trustee and whose trust operations are regulated by the Illinois Department of Financial and Professional Regulation or who complies with the Corporate Fiduciary Act [205 ILCS 5]. (Line through any condition that does not apply.)

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions.

As used in this Agreement:

a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the operator.

b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates.

This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address and current cost estimate of each site for which financial assurance is demonstrated by this agreement).

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund", for the benefit of the IEPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached to this agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this agreement. The Fund shall be held by the Trustee, in trust, as provided in this agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor.

Section 4. Payment for Closure and Post-Closure care or Corrective Action.

The Trustee shall make payments from the Fund as the IEPA shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care or corrective action of the sites covered by this agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA from the Fund for closure and post-closure or corrective action expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trust Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill,

prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

a) Securities or other obligations of the Grantor, or any other owner or operator of the site, or any of their affiliates as defined in Section 80a-2(a)(2) of the Investment Company Act of 1940, as amended (15 USC 80a-2(a)(2)) shall not be acquired or held, unless they are securities or other obligations of the Federal government or the State of Illinois;

b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by the Federal Deposit Insurance Corporation.

c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 USC 80a-1 et seq.) including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this agreement or by law, the Trustee is expressly authorized and empowered;

a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;

b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this agreement;

c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by the Federal Deposit Insurance Corporation; and

e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee, to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation.

The Trustee shall annually furnish to the Grantor and to the IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the _____ day of _____. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the IEPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the IEPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and the successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the IEPA and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the IEPA to the Trustee shall be in writing, signed by the IEPA Director or his/her designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or IEPA, except as provided in this agreement.

Section 15. Notice of Nonpayment.

The Trustee shall notify the Grantor and the IEPA, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee if the Grantor ceases to exist.

Section 17. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the IEPA Director or his/her designee issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law.

This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

Section 20. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration A as those regulations were constituted on the date this Agreement was entered.

Attest: Signature of Grantor _____

Typed Name _____

Title _____

Seal

Attest: Signature of Trustee _____

Typed Name _____

Title _____

Seal

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

Section 811.APPENDIX A Financial Assurance Forms
Section 811.ILLUSTRATION B Certificate of Acknowledgment

CERTIFICATE OF ACKNOWLEDGMENT

State of _____)
)SS
County of_____)

On _____ this_____day of_____,_____before me personally came_____(operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at_____(address), that she/he is _____(title) of_____(corporation), the corporation described in and which executed the

above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

_____ Notary Public

My Commission Expires _____

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

Section 811.APPENDIX A **~~811.Appendix A~~ A Financial Assurance Forms**
Section 811.ILLUSTRATION C Forfeiture Bond

FORFEITURE BOND

Date bond executed: _____

Effective date: _____

Principal: _____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites:

Name _____

Address _____

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

City _____

Amount guaranteed by this bond: $ _____

Name _____

Address _____

City _____

Amount guaranteed by this bond: $ _____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond: _____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the Principal provides closure and post-closure care or corrective action for each site in accordance with the closure and post-closure care or corrective action plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], to have a permit to conduct a waste disposal operation.

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1], to provide financial assurance for closure and post-closure care or corrective action.

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states.

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois.

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Principal fails to provide closure or post-closure care or corrective action for any site in accordance with the closure and post-closure care or corrective action plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

a) Abandons the site;

b) Is adjudicated bankrupt;

c) Fails to initiate closure of the site or post-closure care or corrective action when ordered to do so by the Illinois Pollution Control Board or a court of competent jurisdiction;

d) Notifies the IEPA that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care or corrective action in accordance with the closure and post-closure care or corrective action plans;

e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or

f) Fails to provide alternative financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Principal has met one or more of the conditions described above . Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure Fund.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

This bond shall expire on the ____day of _____,_____ [date], but that expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the Principal and the IEPA have received the notice, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 811.702.

In Witness Whereof, the Principal and Surety have executed this Forfeiture Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration C as that regulation was constituted on the date this bond was executed.

PRINCIPAL	SURETY
_____	_____
Signature	Name
_____	_____
Typed Name	Address
_____	_____
Title	State of Incorporation
_____	_____
Date	Signature
	_____
	Typed Name
	_____
Corporate Seal	Title

Corporate Seal

Bond Premium: $ _____

(Source: Amended at 35 Ill. Reg. 10842, effective June 22, 2011)

Section 811.APPENDIX A Financial Assurance Forms
Section.811.ILLUSTRATION E Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Environmental Protection Agency
C/O Bureau of Land #24
Financial Assurance Program
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit _____ in your favor, at the request and for the account of _____ up to the aggregate amount of _____ U.S. dollars ($ _____) available upon presentation of:

1. your sight draft, bearing references to this letter of credit No. _____ ; and

2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 811.713(e)."

This letter of credit is effective as of _____[date] and shall expire on _____[date] at least one year later]; but that expiration date shall be automatically extended for a period of [at least one year] on_____[date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and _____ _____[owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both the _____[owner's or operator's name] and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ [owner's or operator's name], as shown on the signed return _____receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor that draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure or Corrective Action Fund in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration E as that regulation was constituted on the date shown below.

Signature _____

Typed Name _____

Title _____

Date _____

Name and address of issuing institution _____

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce~~,~~", or "the Uniform Commercial Code"].

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

Section 811.APPENDIX ~~811.Appendix~~ **B State-Federal MSWLF Regulations Correlation Table**

RCRA SUBTITLE D REGULATIONS		ILLINOIS LANDFILL REGULATIONS	
I.	SUBPART A: General		
1)	Purpose, Scope, and Applicability (40 CFR 258.1)	1)	NL[1]: Sections 811.101, 811.301, 811.401, 811.501, and 811.700. EL[2]: Section 814.101.
2)	Definitions (40 CFR 258.2)	2)	Section 810.103.
3)	Research, Development, and Demonstration Permits (40 CFR 258.4)	3)	Sections 811.103(b)(1) and (b)(2), 811.107(m)(1)(C), 811.314(a), and 813.112.
II.	SUBPART B: Location Restrictions		
1)	Airport safety (40 CFR 258.10)	1)	NL[1]: Section 811.302(e) and (f). EL[2]: Section 814.302(c) and 814.402(c).
2)	Floodplains. (40 CFR 258.11)	2)	NL[1]: Section 811.102(b). EL[2]: Sections ~~Section~~ 814.302(a)(1) and 814.402(a)(1).

3)	Wetlands. (40 CFR 258.12)	3)	NL[1]: Sections 811.102(d) and (e)~~,~~ ~~811.102(e),~~ and 811.103. EL[2]: Sections 811.102(d) and (e)~~,~~ ~~811.102(e),~~ and 811.103.
4)	Fault areas. (40 CFR 258.13)	4)	NL[1]: Sections 811.304 and 811.305. EL[2]: Section 814.302 and 814.402.
5)	Seismic impact zones. (40 CFR 258.14)	5)	Same as above.
6)	Unstable areas. (40 CFR 258.15)	6)	NL[1]: Sections 811.304 and 811.305. EL[2]: Sections 811.302(c) and 811.402(c).
7)	Closure of existing MSWL units. (40 CFR 258.16)	7)	EL[2]: Sections 814.301 and 814.401.

III. SUBPART C: Operating Criteria

1)	Procedures for excluding the receipt of hazardous waste. (40 CFR 258.20)	1)	NL[1]: Section 811.323. EL[2]: Sections 814.302 and 814.402.
2)	Cover material requirements. (40 CFR 258.21)	2)	NL[1]: Section 811.106. EL[2]: Sections 814.302 and 814.402.
3)	Disease vector control. (40 CFR 258.22)	3)	NL[1]: Section 811.107(i). EL[2]: Sections 814.302 and 814.402.
4)	Explosive gas control. (40 CFR 258.23)	4)	NL[1]: Sections 811.310, 811.311, and 811.312. EL[2]: Sections 814.302 and 814.402.

5)	Air criteria. (40 CFR 258.24)	5)	NL[1]: Sections 811.107(b), 811.310, and 811.311. EL[2]: Sections 814.302 and 814.402.
6)	Access requirements. (40 CFR 258.25)	6)	NL[1]: Section 811.109. EL[2]: Sections 814.302 and 814.402.
7)	Run-on/run-off control system. (40 CFR 258.26)	7)	NL[1]: Section 811.103. EL[2]: Sections 814.302 and 814.402.
8)	Surface water requirements. (40 CFR 258.27)	8)	Same as above.
9)	Liquids restrictions. (40 CFR 258.28)	9)	NL[1]: Section 811.107(m). EL[2]: Sections 814.302 and 814.402.
10)	Recordkeeping requirements. (40 CFR 258.29)	10)	NL[1]: Sections 811.112, and Parts 812 and 813. EL[2]: Sections 814.302 and 814.402.
IV.	SUBPART D: Design criteria (40 CFR 258.40)	IV)	NL[1]: 811.303, 811.304, 811.305, 811.306, 811.307, 811.308, 811.309, 811.315, 811.316, 811.317, and 811.Subpart E. EL[2]: Sections 814.302 and 814.402.
V.	SUBPART E: Groundwater Monitoring and Corrective Action		
1)	Applicability.	1)	NL[1]: 35 Section 811.319(a)(1). EL[2]: Sections 814.302 and 814.402.

2)	Groundwater monitoring systems. (40 CFR 258.51)	2)	NL[1]: Sections 811.318 and 811.320(d). EL[2]: Sections 814.302 and 814.402.
3)	Groundwater sampling and analysis. (40 CFR 258.53)	3)	NL[1]: Sections ~~Section~~ 811.318(e), 811.320(d)~~, 811.320~~ and (e). EL[2]: Sections 814.302 and 814.402.
4)	Detection monitoring program. (40 CFR 258.54)	4)	NL[1]: Section 811.319(a). EL[2]: Sections 814.302 and 814.402.
5)	Assessment monitoring program. (40 CFR 258.55)	5)	NL[1]: Section 811.319(b). EL[2]: Sections 814.302 and 814.402.
6)	Assessment of corrective measures. (40 CFR 258.56)	6)	NL[1]: Sections 811.319(d) and 811.324. EL[2]: Sections 814.302 and 814.402.
7)	Selection of remedy. (40 CFR 258.57)	7)	NL[1]: Sections 811.319(d) and 811.325. EL[2]: Sections 814.302 and 814.402.
8)	Implementation of the corrective action program. (40 CFR 258.58)	8)	NL[1]: Sections 811.319(d) and ~~811.325~~ 811.326. EL[2]: Sections 814.302 and 814.402.

VI. SUBPART F: Closure and Post-Closure Care

1)	Closure criteria. (40 CFR 258.60)	1)	NL[1]: Sections 811.110, ~~811.315~~ 811.314, and 811.322. EL[2]: Sections 814.302 and 814.402.
2)	Post-closure care requirements. (40 CFR 258.61)	2)	NL[1]: Section 811.111. EL[2]: Sections 814.302 and 814.402.

VII. SUBPART G: Financial Assurance Criteria

1)	Applicability and effective date. (40 CFR 258.70)	1)	NL[1]: Section 811.700. EL[2]: Sections 814.302 and 814.402.
2)	Financial assurance for closure. (40 CFR 258.71)	2)	NL[1]: Sections 811.701 through 811.705. EL[2]: Sections 814.302 and 814.402.
3)	Financial assurance for post-closure. (40 CFR 258.72)	3)	Same as (2).
4)	Financial assurance for corrective action. (40 CFR 258.73)	4)	Same as (2).
5)	Allowable mechanisms. (40 CFR 258.74 and 258.75)	5)	NL[1]: Section 811.706 through 811.720. EL[2]: Sections 814.302 and 814.402.

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

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

Section 811.APPENDIX ~~Appendix~~ C **List of Leachate Monitoring Parameters**

pH
Elevation Leachate Surface
Bottom of Well Elevation
Leachate Level from Measuring Point
Arsenic (total)
Barium (total)
Cadmiun (total) mg/l
Iron (total)
Ammonia Nitrogen – N
Bacteria (Fecal Coliform)
Biochemical Oxygen Demand (BOD_5)
1,1,1,2-Tetrachloroethane

1,1,1-Trichloroethane
1,1,2,2-Tetrachloroethane
1,1,2-Trichloroethane
1,1-Dichloroethane
1,1-Dichloroethylene
1,1-Dichloropropene
1,2,3-Trichlorobenzene
1,2,3-Trichloropropane
1,2,4-Trichlorobenzene
1,2,4-Trimethylbenzene
1,2-Dibromo-3-Chloropropane
1,2-Dichloroethane
1,2-Dichloropropane
1,3,5-Trimethylbenzene
1,3-Dichloropropane
1,3-Dichloropropene
1,4-Dichloro-2-Butene
1-Propanol
2,2-Dichloropropane
2,4,5-tp (Silvex)
2,4,6-Trichlorophenol
2,4-Dichlorophenol
2,4-Dichlorophenoxyacetic Acid (2,4-D)
2,4-Dimethylphenol
2,4-Dinitrotoluene
2,4-Dinitrophenol
2,6-Dinitrotoluene
2-Chloroethyl Vinyl Ether
2-Chloronaphthalene
2-Chlorophenol
2-Hexanone
2-Propanol (Isopropyl Alcohol)
3,3-Dichlorobenzidine
4,4-DDD
4,4-DDE
4,4-DDT
4,6-Dinitro-o-Cresol
4-Bromophenyl Phenyl Ether
4-Chlorophenyl Phenyl Ether
4-Methyl-2-Pentanone
4-Nitrophenol

Acenaphthene
Acetone
Alachlor
Aldicarb
Aldrin
Alpha – BHC
Aluminum
Anthracene
Antimony
Atrazine
Benzene
Benzo (a) Anthracene
Benzo (a) Pyrene
Benzo (b) Fluoranthene
Benzo (ghi) Perylene
Benzo (k) Fluoranthene
Beryllium (total)
Beta – BHC
Bicarbonate
Bis (2-Chloro-1-Methylethyl) Ether
Bis (2-Chloroethoxy) Methane
Bis (2-Chloroethyl) Ether
Bis (2-Ethylhexyl) Ether
Bis (2-Ethylhexyl) Phthalate
Bis(Chloromethyl) Ether
Boron
Bromobenzene
Bromochloromethane
Bromodichloromethane
Bromoform
Bromomethane
Butanol
Butyl Benzyl Phthalate
Calcium mg/l
Carbofuran
Carbon Disulfide
Carbon Tetrachloride
Chemical Oxygen Demand (COD)
Chlordane
Chloride mg/l
Chlorobenzene

Chloroethane
Chloroform
Chloromethane
Chromium (hexavalent)
Chromium (total)
Chrysene
Cis-1,2-Dichloroethylene
Cobalt (total)
Copper (total)
Cyanide
DDT
Delta – BHC
Di-N-Butyl Phthalate
Di-N-Octyl Phthalate
Dibenzo (a,h) Anthracene
Dibromochloromethane
Dibromomethane
Dichlorodifluormethane
Dieldrin
Diethyl Phthalate
Dimethyl Phthalate
Endosulfan I
Endosulfan II
Endosulfan Sulfate
Endrin
Endrin Aldehyde
Ethyl Acetate
Ethylbenzene
Ethylene Dibromide (EDB)
Fluoranthene
Fluorene
Fluoride
Heptachlor Epoxide
Heptachlor
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Ideno (1,2,3-cd) Pyrene
Iodomethane
Isopropylbenzene

Lead (total)
Lindane
Magnesium (total)
Manganese (total)
Mercury (total)
Methoxychlor
Methyl Chloride
Methyl Ethyl Ketone
Methylene Bromide
Methylene Chloride
Naphthalene
Nickel (total)
Nitrate-Nitrogen
Nitrobenzine
Oil. Hexane Soluble (or Equivalent)
Parathion
Pentachlorophenol
Phenanthrene
Phenols
Phosphorous
Polychlorinated Biphenyls
Potassium
Pyrene
Selenium
Silver (total)
Specific Conductance
Sodium
Styrene
Sulfate
Temperature of Leachate Sample (°F)
Tert-Butylbenzene
Tetrachlorodibenzo-p-Dixoins
Tetrachloroethylene
Tetrahydrofuran
Thallium
Tin
Toluene
Total Organic Carbon (TOC)
Total Dissolved Solids (TDS) mg/l
Total Suspended Solids (TSS) mg/l
Toxaphene

Trans-1,2-Dichloroethylene
Trans-1,3-Dichlorpropene
Trichloroethylene
Trichlorofluoromethane
Vinyl Acetate
Vinyl Chloride
Xylene
Zinc (total)
m-Dichlorobenzene
m-Xylene
n-Butylbenzene
n-Nitrosodimethylamine
n-Nitrosodiphenylamine
n-Nitrosodipropylamine
n-Propylbenzene
o-Chlorotoluene
o-Dichlorobenzene
o-Nitrophenol
o-Xylene
p-Chlorotoluene
p-Cresol
p-Dichlorobenzene
p-Isopropyltoluene
p-Nitrophenol
p-Xylene
sec-Butylbenzene

Note: All parameters must ~~shall~~ be determined from unfiltered samples.

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

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Information to be Submitted in a Permit Application

2) Code Citation: 35 Ill. Adm. Code 812

3)

Section Number:	Proposed Action:
812.105	Amendment

4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27.

5) A complete description of the subjects and issues involved: The amendments to Part 812 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 810 and 811, 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 consolidated docket R17-14/R17-15/R18-11/R18-31 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 702. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendment to Part 812 makes needed corrections in the text of the rules.

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

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None.

7) Does this rulemaking replace an emergency rule currently in effect? No.

8) Does this rulemaking contain an automatic repeal date? No.

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9) Does this proposed rulemaking contain incorporations by reference? No.

10) Are there any other rulemakings pending on this Part? No.

11) 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) (2016)].

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

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

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

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

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 disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2016)].

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) (2016)].

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) (2016)].

14) Regulatory agenda on which this rulemaking was summarized: January 2017 and January 2018.

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

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 812
INFORMATION TO BE SUBMITTED IN A PERMIT APPLICATION

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section
812.101 Scope and Applicability
812.102 Certification by Professional Engineer
812.103 Application Fees
812.104 Required Signatures
812.105 Approval by Unit of Local Government
812.106 Site Location Map
812.107 Site Plan Map
812.108 Narrative Description of the Facility
812.109 Location Standards
812.110 Surface Water Control
812.111 Daily Cover
812.112 Legal Description
812.113 Proof of Property Ownership and Certification
812.114 Closure Plans
812.115 Postclosure Care Plans
812.116 Closure and Postclosure Cost Estimates
812.117 Electronic Reporting

SUBPART B: ADDITIONAL INFORMATION REQUIRED FOR INERT WASTE LANDFILLS

Section
812.201 Scope and Applicability
812.202 Waste Stream Test Results
812.203 Final Cover
812.204 Closure Requirements

SUBPART C: ADDITIONAL INFORMATION REQUIRED FOR PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section
812.301 Scope and Applicability

812.302 Waste Analysis
812.303 Site Location
812.304 Waste Shredding
812.305 Foundation Analysis and Design
812.306 Design of the Liner System
812.307 Leachate Drainage and Collection Systems
812.308 Leachate Management System
812.309 Landfill Gas Monitoring Systems
812.310 Gas Collection Systems
812.311 Landfill Gas Disposal
812.312 Intermediate Cover
812.313 Design of the Final Cover System
812.314 Description of the Hydrogeology
812.315 Plugging and Sealing of Drill Holes
812.316 Results of the Groundwater Impact Assessment
812.317 Groundwater Monitoring Program
812.318 Operating Plans

AUTHORITY: Implementing Sections 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. 15785, effective September 18, 1990; amended in R90-26 at 18 Ill. Reg. 12185, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1461, effective December 20, 2006; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section 812.105 Approval by Unit of Local Government

The applicant must ~~shall~~ state whether the facility is a new regional pollution control facility, as defined in Section 3.330 ~~3.32~~ of the Act, which is subject to the site location suitability approval requirements of Sections 39(c) and 39.2 of the Act. If such approval by a unit of local government is required, the application must ~~shall~~ identify the unit of local government with jurisdiction. The application must ~~shall~~ contain any approval issued by that unit of local government. If no approval has been granted, the application must ~~shall~~ describe the status of the approval request.

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