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2 SUBTITLE G: WASTE DISPOSAL
3 CHAPTER I: POLLUTION CONTROL BOARD
4 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS
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309 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
 310 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

311
 312 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
 313 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.
 314 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12,
 315 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10
 316 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective
 317 August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in
 318 R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338,
 319 effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,
 320 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at
 321 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective
 322 November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990;
 323 amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at
 324 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective
 325 October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in
 326 R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg.
 327 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22,
 328 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18
 329 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective
 330 November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in
 331 R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22
 332 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective
 333 April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28,
 334 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999;
 335 amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill.
 336 Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20,
 337 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at
 338 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective
 339 April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23,
 340 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006;
 341 amended in R07-5/R07-14 at 32 Ill. Reg. _____, effective _____.

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 343 SUBPART B: GENERAL FACILITY STANDARDS
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345 **Section 725.115 General Inspection Requirements**

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- a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing – or may lead to – the conditions listed below. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
 - 1) Release of hazardous waste constituents to the environment, or
 - 2) A threat to human health.
- b) Written schedule.
 - 1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.
 - 2) The owner or operator must keep this schedule at the facility.
 - 3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).
 - 4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section. At a minimum, the inspection schedule must include the items and frequencies called for in Sections 725.274, 725.293, 725.295, 725.326, 725.360, 725.378, 725.404, 725.447, 725.477, 725.503, 725.933, 725.952, 725.953, 725.958, and 725.984 through 725.990, where applicable.
 - 5) The owner or operator of a Performance Track member facility that chooses to reduce its inspection frequency must fulfill the following requirements:

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- A) It must submit an application to the Agency. The application must identify its facility as a member of the National Environmental Performance Track Program, and it must identify the management units for reduced inspections and the proposed frequency of inspections. Inspections pursuant to this subsection (b)(5) must be conducted at least once each month.

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

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

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

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

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 725.116 Personnel Training

- a) Personnel training program.
 - 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (d)(3) of this Section.
 - 2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.
 - 3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment and emergency systems, including the following where applicable:
 - A) Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment;
 - B) Key parameters for automatic waste feed cut-off systems;
 - C) Communications or alarm systems;
 - D) Response to fires or explosions;
 - E) Response to groundwater contamination incidents; and
 - F) Shutdown of operations.
 - 4) For facility employees that receive emergency response training pursuant to the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility OSHA emergency response training meets all the requirements of this Section.

- 474 b) Facility personnel must successfully complete the program required in subsection
475 (a) of this Section upon the effective date of these regulations or six months after
476 the date of their employment or assignment to a facility or to a new position at a
477 facility, whichever is later. Employees hired after the effective date of these
478 regulations must not work in unsupervised positions until they have completed the
479 training requirements of subsection (a) of this Section.
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- 481 c) Facility personnel must take part in an annual review of the initial training
482 required in subsection (a) of this Section.
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- 484 d) The owner or operator must maintain the following documents and records at the
485 facility:
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- 487 1) The job title for each position at the facility related to hazardous waste
488 management and the name of the employee filling each job;
489
 - 490 2) A written job description for each position listed under subsection (d)(1)
491 of this Section. This description may be consistent in its degree of
492 specificity with descriptions for other similar positions in the same
493 company location or bargaining unit, but must include the requisite skill,
494 education, or other qualifications and duties of facility personnel assigned
495 to each position;
496
 - 497 3) A written description of the type and amount of both introductory and
498 continuing training that will be given to each person filling a position
499 listed under subsection (d)(1) of this Section;
500
 - 501 4) Records that document that the training or job experience required under
502 subsections (a), (b), and (c) of this Section has been given to and
503 completed by facility personnel.
504
- 505 e) Training records on current personnel must be kept until closure of the facility.
506 Training records on former employees must be kept for at least three years from
507 the date the employee last worked at the facility. Personnel training records may
508 accompany personnel transferred within the same company.
509

510 (Source: Amended at 32 Ill. Reg. _____, effective _____)
511

512 **Section 725.119 Construction Quality Assurance Program**
513

- 514 a) CQA program.
515
- 516 1) A construction quality assurance (CQA) program is required for all

517 surface impoundment, waste pile and landfill units that are required to
 518 comply with Sections 725.321(a), 725.354, and 725.401(a). The program
 519 must ensure that the constructed unit meets or exceeds all design criteria
 520 and specifications in this Part. The program must be developed and
 521 implemented under the direction of a CQA officer that is a registered
 522 professional engineer.

523
 524 2) The CQA program must address the following physical components,
 525 where applicable:

- 526 A) Foundations;
- 527 B) Dikes;
- 528 C) Low-permeability soil liners;
- 529 D) Geomembranes (flexible membrane liners);
- 530 E) Leachate collection and removal systems and leak detection
 531 systems; and
- 532 F) Final cover systems.

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 535 b) Written CQA plan. Before construction begins on a unit subject to the CQA
 536 program under subsection (a) of this Section, the owner or operator must develop
 537 a written CQA plan. The plan must identify steps that will be used to monitor and
 538 document the quality of materials and the condition and manner of their
 539 installation. The CQA plan must include the following:

- 540 1) Identification of applicable units and a description of how they will be
 541 constructed.
- 542 2) Identification of key personnel in the development and implementation of
 543 the CQA plan, and CQA officer qualifications.
- 544 3) A description of inspection and sampling activities for all unit components
 545 identified in subsection (a)(2) of this Section, including observations and
 546 tests that will be used before, during and after construction to ensure that
 547 the construction materials and the installed unit components meet the
 548 design specifications. The description must cover: Sampling size and
 549 locations; frequency of testing; data evaluation procedures; acceptance and
 550 rejection criteria for construction materials; plans for implementing
 551 corrective measures; and data or other information to be recorded and
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retained in the operating record under Section 725.173.

- c) Contents of program.
 - 1) The CQA program must include observations, inspections, tests and measurements sufficient to ensure the following:
 - A) Structural stability and integrity of all components of the unit identified in subsection (a)(2) of this Section;
 - B) Proper construction of all components of the liners, leachate collection and removal system, leak detection system and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;
 - C) Conformity of all materials used with design and other material specifications under 35 Ill. Adm. Code 724.321, 724.351, and 724.401.
 - 2) The CQA program must include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c)(1), 724.351(c)(1), or 724.401(c)(1) in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of 35 Ill. Adm. Code 724.321(c)(1), ~~724.354(c)(1)~~~~724.354(e)(1)~~, or 724.401(c)(1) in the field.
- d) Certification. The owner or operator of units subject to this Section must submit to the Agency by certified mail or hand delivery, at least 30 days prior to receiving waste, a certification signed by the CQA officer that the CQA plan has been successfully carried out and that the unit meets the requirements of Sections 725.321(a), 725.354, or 725.401(a). The owner or operator may receive waste in the unit after 30 days from the Agency's receipt of the CQA certification unless the Agency determines in writing that the construction is not acceptable, or extends the review period for a maximum of 30 more days, or seeks additional information from the owner or operator during this period. Documentation supporting the CQA officer's certification must be furnished to the Agency upon request.

- 603 e) Final Agency determinations pursuant to this Section are deemed to be permit
604 denials for purposes of appeal to the Board pursuant to Section 40 of the
605 Environmental Protection Act [415 ILCS 5/40].
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607 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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609 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES
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611 **Section 725.152 Content of Contingency Plan**
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- 613 a) The contingency plan must describe the actions facility personnel must take to
614 comply with Sections 725.151 and 725.156 in response to fires, explosions, or any
615 unplanned sudden or non-sudden release of hazardous waste or hazardous waste
616 constituents to air, soil, or surface water at the facility.
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- 618 b) If the owner or operator has already prepared a federal Spill Prevention Control
619 and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112 or 300, or
620 some other emergency or contingency plan, it needs only amend that plan to
621 incorporate hazardous waste management provisions that are sufficient to comply
622 with the requirements of this Part. The owner or operator may develop one
623 contingency plan that meets all regulatory requirements. USEPA has
624 recommended that the plan be based on the National Response Team's Integrated
625 Contingency Plan Guidance (One Plan). When modifications are made to non-
626 RCRA provisions in an integrated contingency plan, the changes do not trigger
627 the need for a RCRA permit modification.
628
- 629 BOARD NOTE: The federal One Plan guidance appeared in the Federal Register
630 at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103
631 (June 19, 1996). USEPA, Office of Solid Waste and Emergency Response,
632 Chemical Emergency Preparedness and Prevention Office, has made these
633 documents available on-line for examination and download at
634 yosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm.
635
- 636 c) The plan must describe arrangements agreed to by local police department, fire
637 departments, hospitals, contractors, and State and local emergency response teams
638 to coordinate emergency services, pursuant to Section 725.137.
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- 640 d) The plan must list names, addresses, and phone numbers (office and home) of all
641 persons qualified to act as emergency coordinator (see Section 725.155), and this
642 list must be kept up to date. Where more than one person is listed one must be
643 named as primary emergency coordinator and others must be listed in the order in
644 which they will assume responsibility as alternates.
645

- 646 e) The plan must include a list of all emergency equipment at the facility (such as
647 fire extinguishing systems, spill control equipment, communications and alarm
648 systems (internal and external), and decontamination equipment) where this
649 equipment is required. This list must be kept up to date. In addition, the plan
650 must include the location and a physical description of each item on the list and a
651 brief outline of its capabilities.
652
- 653 f) The plan must include an evacuation plan for facility personnel where there is a
654 possibility that evacuation could be necessary. This plan must describe signals to
655 be used to begin evacuation, evacuation routes, and alternate evacuation routes (in
656 cases where the primary routes could be blocked by releases of hazardous waste
657 or fires).
658

659 (Source: Amended at 32 Ill. Reg. _____, effective _____)
660

661 **Section 725.156 Emergency Procedures**
662

- 663 a) Whenever there is an imminent or actual emergency situation, the emergency
664 coordinator (or his designee when the emergency coordinator is on call) must
665 immediately do the following:
666
 - 667 1) He or she must activate internal facility alarms or communication systems,
668 where applicable, to notify all facility personnel; and
669
 - 670 2) He or she must notify appropriate State or local agencies with designated
671 response roles if their help is needed.
672
- 673 b) Whenever there is a release, fire, or explosion, the emergency coordinator must
674 immediately identify the character, exact source, amount, and ~~areala-real~~ extent of
675 any released materials. He or she may do this by observation or review of facility
676 records or manifests and, if necessary, by chemical analysis.
677
- 678 c) Concurrently, the emergency coordinator must assess possible hazards to human
679 health or the environment that may result from the release, fire, or explosion.
680 This assessment must consider both direct and indirect effects of the release, fire,
681 or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are
682 generated, or the effects of any hazardous surface water runoffs from water or
683 chemical agents used to control fire and heat-induced explosions).
684
- 685 d) If the emergency coordinator determines that the facility has had a release, fire, or
686 explosion that could threaten human health or the environment outside the
687 facility, he or she must report his findings as follows:
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- 1) If his assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and
 - 2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following:
 - A) The name and telephone number of reporter;
 - B) The name and address of facility;
 - C) The time and type of incident (e.g., release, fire, etc.);
 - D) The name and quantity of materials involved, to the extent known;
 - E) The extent of injuries, if any; and
 - F) The possible hazards to human health or the environment outside the facility.
 - e) During an emergency the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.
 - f) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
 - g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil, or surface water, or any other material that results from a release, fire, or explosion at the facility.
- BOARD NOTE: Unless the owner or operator can demonstrate in accordance with 35 Ill. Adm. Code 721.103(d) or (e) that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm.

732 Code 722, 723, and 725.

733

734 h) The emergency coordinator must ensure that, in the affected areas of the facility,
735 the following occur:

736

737 1) No waste that may be incompatible with the released material is treated,
738 stored, or disposed of until cleanup procedures are completed; and

739

740 2) All emergency equipment listed in the contingency plan is cleaned and fit
741 for its intended use before operations are resumed.

742

743 ~~i) The owner or operator must notify the Agency and other appropriate State and~~
744 ~~local authorities that the facility is in compliance with subsection (h) of this~~
745 ~~Section before operations are resumed in the affected areas of the facility.~~

746

747 ij) The owner or operator must note in the operating record the time, date, and details
748 of any incident that requires implementing the contingency plan. Within 15 days
749 after the incident, it must submit a written report on the incident to the Agency.
750 The report must include the following information:

751

752 1) The name, address, and telephone number of the owner or operator;

753

754 2) The name, address, and telephone number of the facility;

755

756 3) The date, time, and type of incident (e.g., fire, explosion, etc.);

757

758 4) The name and quantity of materials involved;

759

760 5) The extent of injuries, if any;

761

762 6) An assessment of actual or potential hazards to human health or the
763 environment, where this is applicable; and

764

765 7) The estimated quantity and disposition of recovered material that resulted
766 from the incident.

767

768 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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770 **SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING**

771

772 **Section 725.171 Use of Manifest System**

773

774 a) Receipt of manifested hazardous waste.

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1) ~~The following requirements apply until September 5, 2006: If a facility receives hazardous waste accompanied by a manifest, the owner or operator or its agent must do each of the following:~~

~~A) It must sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;~~

~~B) It must note any significant discrepancies in the manifest, as defined in Section 725.172(a), on each copy of the manifest;~~

~~BOARD NOTE: An owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the manifest and giving it to the transporter. Section 725.172(b), however, requires the owner or operator to report any unreconciled discrepancy discovered during later analysis.~~

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

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

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

2) ~~The following requirements apply effective September 5, 2006:~~

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

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

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

Bi) It must note any discrepancies (as defined in Section 725.172(b)) on each copy of the manifest;

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- Ciii) It must immediately give the transporter at least one copy of the manifest;
- Div) It must send a copy of the manifest to the generator within 30 days after delivery; and
- Ev) It must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3e) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest to the following address within 30 days after delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

~~BOARD NOTE: Subsection (a)(1) of this Section corresponds with 40 CFR 265.71(a) (2004), effective until September 5, 2006. Subsection (a)(2) of this Section corresponds with 40 CFR 265.71(a) (2005), effective September 5, 2006.~~

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

- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
- 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

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

861 been received);

862

863 4) Forwarding copies of the manifest.

864

865 A) ~~Until September 5, 2006: The facility owner or operator must send~~
 866 ~~a copy of the signed and dated manifest to the generator and to the~~
 867 ~~Agency within 30 days after the delivery; however, if the manifest~~
 868 ~~has not been received within 30 days after delivery, the owner or~~
 869 ~~operator, or its agent, must send a copy of the shipping paper~~
 870 ~~signed and dated to the generator; or~~

871

872 4B) ~~Effective September 5, 2006: The owner or operator must send a copy of~~
 873 ~~the signed and dated manifest or a signed and dated copy of the shipping~~
 874 ~~paper (if the manifest has not been received within 30 days after delivery)~~
 875 ~~to the generator within 30 days after the delivery; and~~

876

877 BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to
 878 send three copies of the manifest to the facility when hazardous waste is
 879 sent by rail or water (bulk shipment). ~~Subsection (b)(4)(A) is derived~~
 880 ~~from 40 CFR 265.74(b)(4) (2004), effective until September 5, 2006.~~
 881 ~~Subsection (b)(4)(B) is derived from 40 CFR 265.74(b)(4) (2005),~~
 882 ~~effective September 5, 2006.~~

883

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

887

888 c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or
 889 operator of that facility must comply with the requirements of 35 Ill. Adm. Code
 890 722.

891

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

896

897 d) Within three working days of the receipt of a shipment subject to Subpart H of 35
 898 Ill. Adm. Code 722, the owner or operator of the facility must provide a copy of
 899 the tracking document bearing all required signatures to the notifier; to the Office
 900 of Enforcement and Compliance Assurance, Office of Compliance, Enforcement
 901 Planning, Targeting and Data Division (2222A), Environmental Protection
 902 Agency, 401 M St., SW, Washington, DC 20460; to the Bureau of Land, Division
 903 of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box

904 19276, Springfield, IL 62794-9276; and to competent authorities of all other
 905 concerned countries. The original copy of the tracking document must be
 906 maintained at the facility for at least three years from the date of signature.
 907

908 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 909

910 **Section 725.172 Manifest Discrepancies**

911
 912 a) ~~The following requirements apply until September 5, 2005:~~

913
 914 1) ~~Manifest discrepancies are differences between the quantity or type of~~
 915 ~~hazardous waste designated on the manifest or shipping paper and the~~
 916 ~~quantity or type of hazardous waste a facility actually receives.~~

917
 918 2) ~~Significant discrepancies in quantity are defined as follows:~~

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 920 A) ~~For bulk waste, variations greater than 10 percent in weight, and~~

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 922 B) ~~For batch waste, any variation in piece count, such as a~~
 923 ~~discrepancy of one drum in a truckload.~~

924
 925 3) ~~Significant discrepancies in type are obvious differences that can be~~
 926 ~~discovered by inspection or waste analysis, such as waste solvent~~
 927 ~~substituted for waste acid or toxic constituents not reported on the~~
 928 ~~manifest or shipping paper.~~

929
 930 4) ~~Upon discovering a significant discrepancy, the owner or operator must~~
 931 ~~attempt to reconcile the discrepancy with the waste generator or~~
 932 ~~transporter (e.g., with telephone conversations). If the discrepancy is not~~
 933 ~~resolved within 15 days after receiving the waste, the owner or operator~~
 934 ~~must immediately submit to the Agency a letter describing the discrepancy~~
 935 ~~and attempts to reconcile it and a copy of the manifest or shipping paper at~~
 936 ~~issue.~~

937
 938 b) ~~The following requirements apply effective September 5, 2005:~~

939
 940 a) "Manifest discrepancies" are defined as any one of the following:

941
 942 1A) Significant differences (as defined by subsection (b)(2) of this Section)
 943 between the quantity or type of hazardous waste designated on the
 944 manifest or shipping paper, and the quantity and type of hazardous waste a
 945 facility actually receives;
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Code 722.120(a) and the following instructions set forth in subsections (e)(1) through (e)(6) of this Section:

- 1A) Write the generator's USEPA identification number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space in Item 5.
- 2B) Write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.
- 3C) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.
- 4D) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).
- 5E) Write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.
- 6F) Sign the Generator's/Offerrer's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.
- 7G) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with subsections (e)(1)(b)(5)(A) through (e)(6)(b)(5)(F) of this Section.
- f6) Except as provided in subsection (f)(7)(b)(6)(G) of this Section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and

1032 the following instructions set forth in subsections (f)(1) through (f)(6) of this
 1033 Section:

- 1034
- 1035 1A) Write the facility's USEPA identification number in Item 1 of the new
 1036 manifest. Write the generator's name and mailing address in Item 5 of the
 1037 new manifest. If the mailing address is different from the generator's site
 1038 address, then write the generator's site address in the designated space for
 1039 Item 5.
- 1040
- 1041 2B) Write the name of the initial generator and the generator's USEPA
 1042 identification number in the designated facility block (Item 8) of the new
 1043 manifest.
- 1044
- 1045 3C) Copy the manifest tracking number found in Item 4 of the old manifest to
 1046 the Special Handling and Additional Information Block of the new
 1047 manifest, and indicate that the shipment is a residue or rejected waste from
 1048 the previous shipment.
- 1049
- 1050 4D) Copy the manifest tracking number found in Item 4 of the new manifest to
 1051 the manifest reference number line in the Discrepancy Block of the old
 1052 manifest (Item 18a).
- 1053
- 1054 5E) Write the USDOT description for the rejected load or the residue in Item 9
 1055 (USDOT Description) of the new manifest and write the container types,
 1056 quantity, and volumes of waste.
- 1057
- 1058 6F) Sign the Generator's/Offerrer's Certification to certify, as offeror of the
 1059 shipment, that the waste has been properly packaged, marked and labeled
 1060 and is in proper condition for transportation.
- 1061
- 1062 7G) For full load rejections that are made while the transporter remains at the
 1063 facility, the facility may return the shipment to the generator with the
 1064 original manifest by completing Item 18b of the manifest and supplying
 1065 the generator's information in the Alternate Facility space. The facility
 1066 must retain a copy for its records and then give the remaining copies of the
 1067 manifest to the transporter to accompany the shipment. If the original
 1068 manifest is not used, then the facility must use a new manifest and comply
 1069 with subsections (f)(1)(b)(6)(A) through (f)(6)(b)(6)(F) of this Section.

1070

1071 g7) If a facility rejects a waste or identifies a container residue that exceeds the
 1072 quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b)
 1073 after it has signed, dated, and returned a copy of the manifest to the delivering
 1074 transporter or to the generator, the facility must amend its copy of the manifest to

1075 indicate the rejected wastes or residues in the discrepancy space of the amended
 1076 manifest. The facility must also copy the manifest tracking number from Item 4
 1077 of the new manifest to the Discrepancy space of the amended manifest, and must
 1078 re-sign and date the manifest to certify to the information as amended. The
 1079 facility must retain the amended manifest for at least three years from the date of
 1080 amendment, and must, within 30 days, send a copy of the amended manifest to
 1081 the transporter and generator that received copies prior to their being amended.
 1082

1083 BOARD NOTE: ~~Subsection (a) is derived from 40 CFR 265.72 (2004), effective until~~
 1084 ~~September 5, 2006. Subsection (b) is derived from 40 CFR 265.72 (2005), effective~~
 1085 ~~September 5, 2006.~~

1086
 1087 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 1088

1089 **Section 725.173 Operating Record**

- 1090
- 1091 a) The owner or operator must keep a written operating record at the facility.
 - 1092
 - 1093 b) The following information must be recorded as it becomes available and
 1094 maintained in the operating record for three years unless otherwise provided as
 1095 followsuntil closure of the facility:
 - 1096
 - 1097 1) A description and the quantity of each hazardous waste received and the
 1098 ~~method or methods and date or dates~~ of its treatment, storage, or disposal
 1099 at the facility, as required by Appendix A to this Part. This information
 1100 must be maintained in the operating record until closure of the facility;
 - 1101
 - 1102 2) The location of each hazardous waste within the facility and the quantity
 1103 at each location. For disposal facilities the location and quantity of each
 1104 hazardous waste must be recorded on a map or diagram that showsef each
 1105 cell or disposal area. For all facilities this information must include cross-
 1106 references to ~~specific~~ manifest document numbers if the waste was
 1107 accompanied by a manifest. This information must be maintained in the
 1108 operating record until closure of the facility;
 - 1109
 - 1110 BOARD NOTE: See Sections 725.219, 725.379, and 725.409 for related
 1111 requirements.
 - 1112
 - 1113 3) Records and results of waste analysis, waste determinations, and trial tests
 1114 performed, as specified in Sections 725.113, 725.300, 725.325, 725.352,
 1115 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and
 1116 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;
 - 1117
 - 1118 4) Summary reports and details of all incidents that require implementing the

- 1119 contingency plan, as specified in Section 725.156(j);
1120
1121 5) Records and results of inspections as required by Section 725.115(d)
1122 (except these data need be kept only three years);
1123
1124 6) Monitoring, testing, or analytical data, where required by Subpart F of this
1125 Part or Sections 725.119, ~~725.190, 725.194, 725.291, 725.293, 725.295,~~
1126 725.324, 725.322, 725.323, 725.326, 725.355, 725.359, 725.360, 725.376,
1127 725.378, 725.380(d)(1), 725.402, through 725.404, 725.447, 725.477,
1128 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and
1129 725.1083 through 725.990. Maintain in the operating record for three
1130 years, except for records and results pertaining to groundwater monitoring
1131 and cleanup, and response action plans for surface impoundments, waste
1132 piles, and landfills, which must be maintained in the operating record until
1133 closure of the facility;
1134
1135 BOARD NOTE: As required by Section 725.194, monitoring data at
1136 disposal facilities must be kept throughout the post-closure period.
1137
1138 7) All closure cost estimates under Section 725.242 and, for disposal
1139 facilities, all post-closure cost estimates under Section 725.244 must be
1140 maintained in the operating record until closure of the facility;
1141
1142 8) Records of the quantities (and date of placement) for each shipment of
1143 hazardous waste placed in land disposal units under an extension of the
1144 effective date of any land disposal restriction granted pursuant to 35 Ill.
1145 Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or
1146 a certification under 35 Ill. Adm. Code 728.108 and the applicable notice
1147 required of a generator under 35 Ill. Adm. Code 728.107(a). All of this
1148 information must be maintained in the operating record until closure of the
1149 facility;
1150
1151 9) For an off-site treatment facility, a copy of the notice and the certification
1152 and demonstration, if applicable, required of the generator or the owner or
1153 operator under 35 Ill. Adm. Code 728.107 or 728.108;
1154
1155 10) For an on-site treatment facility, the information contained in the notice
1156 (except the manifest number) and the certification and demonstration, if
1157 applicable, required of the generator or the owner or operator under 35 Ill.
1158 Adm. Code 728.107 or 728.108;
1159
1160 11) For an off-site land disposal facility, a copy of the notice and the
1161 certification and demonstration, if applicable, required of the generator or

- 1162 the owner or operator of a treatment facility under 35 Ill. Adm. Code
 1163 728.107 or 728.108;
- 1164
- 1165 12) For an on-site land disposal facility, the information contained in the
 1166 notice required of the generator or owner or operator of a treatment facility
 1167 under 35 Ill. Adm. Code 728.107, except for the manifest number, and the
 1168 certification and demonstration, if applicable, required under 35 Ill. Adm.
 1169 Code 728.107 or 728.108;
- 1170
- 1171 13) For an off-site storage facility, a copy of the notice and the certification
 1172 and demonstration, if applicable, required of the generator or the owner or
 1173 operator under 35 Ill. Adm. Code 728.107 or 728.108; and
- 1174
- 1175 14) For an on-site storage facility, the information contained in the notice
 1176 (except the manifest number) and the certification and demonstration, if
 1177 applicable, required of the generator or the owner or operator under 35 Ill.
 1178 Adm. Code 728.107 or 728.108; and-
- 1179
- 1180 15) Monitoring, testing or analytical data, and corrective action, where
 1181 required by Sections 725.190 and 725.193(d)(2) and (d)(5), and the
 1182 certification, as required by Section 725.196(f), must be maintained in the
 1183 operating record until closure of the facility.
- 1184

1185 (Source: Amended at 32 Ill. Reg. _____, effective _____)

1186

1187 **Section 725.176 Unmanifested Waste Report**

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- 1189 a) ~~The following requirements apply until September 5, 2005: If a facility accepts~~
 1190 ~~for treatment, storage, or disposal any hazardous waste from an off-site source~~
 1191 ~~without an accompanying manifest or without an accompanying shipping paper,~~
 1192 ~~as described in 35 Ill. Adm. Code 723.120(e)(2), and, if the waste is not excluded~~
 1193 ~~from the manifest requirement by 35 Ill. Adm. Code 721.105, then the owner or~~
 1194 ~~operator must prepare and submit a single copy of a report to the Agency within~~
 1195 ~~15 days after receiving the waste. The unmanifested waste report must be~~
 1196 ~~submitted on USEPA form 8700-13B. Such report must be designated~~
 1197 ~~"Unmanifested Waste Report" and must include the following information:~~
- 1198
- 1199 1) ~~The USEPA identification number, name, and address of the facility;~~
- 1200
- 1201 2) ~~The date the facility received the waste;~~
- 1202
- 1203 3) ~~The USEPA identification number, name, and address of the generator and~~
 1204 ~~the transporter, if available;~~

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- 4) ~~A description and the quantity of each unmanifested hazardous waste the facility received;~~
- 5) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
- 6) ~~The certification signed by the owner or operator of the facility or its authorized representative; and~~
- 7) ~~A brief explanation of why the waste was unmanifested, if known.~~

ab) ~~The following requirements apply effective September 5, 2005: If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265, then the owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:~~

- 1) ~~The USEPA identification number, name, and address of the facility;~~
- 2) ~~The date the facility received the waste;~~
- 3) ~~The USEPA identification number, name, and address of the generator and the transporter, if available;~~
- 4) ~~A description and the quantity of each unmanifested hazardous waste the facility received;~~
- 5) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
- 6) ~~The certification signed by the owner or operator of the facility or its authorized representative; and~~
- 7) ~~A brief explanation of why the waste was unmanifested, if known.~~

b) This subsection (b) corresponds with 40 CFR 265.76(b), which USEPA has marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.

BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under this Part and do not require a manifest. Where a facility received unmanifested

1248 hazardous waste, USEPA has suggested that the owner or operator obtain from each
1249 generator a certification that the waste qualifies for exclusion. Otherwise, USEPA has
1250 suggested that the owner or operator file an unmanifested waste report for the hazardous
1251 waste movement. ~~Subsection (a) is derived from 40 CFR 265.76 (2004), effective until~~
1252 ~~September 5, 2006. Subsection (b) is derived from 40 CFR 265.76 (2005), effective~~
1253 ~~September 5, 2006.~~

1254
1255 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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1257 **SUBPART F: GROUNDWATER MONITORING**

1258
1259 **Section 725.190 Applicability**

- 1260
- 1261 a) The owner or operator of a surface impoundment, landfill, or land treatment
1262 facility that is used to manage hazardous waste must implement a groundwater
1263 monitoring program capable of determining the facility's impact on the quality of
1264 groundwater in the uppermost aquifer underlying the facility, except as Section
1265 725.101 and subsection (c) of this Section provide otherwise.
1266
 - 1267 b) Except as subsections (c) and (d) of this Section provide otherwise, the owner or
1268 operator must install, operate, and maintain a groundwater monitoring system that
1269 meets the requirements of Section 725.191 and must comply with Sections
1270 725.192 through 725.194. This groundwater monitoring program must be carried
1271 out during the active life of the facility and for disposal facilities during the post-
1272 closure care period as well.
1273
 - 1274 c) All or part of the groundwater monitoring requirements of this Subpart F may be
1275 waived if the owner or operator can demonstrate that there is a low potential for
1276 migration of hazardous waste or hazardous waste constituents from the facility via
1277 the uppermost aquifer to water supply wells (domestic, industrial, or agricultural)
1278 or to surface water. This demonstration must be in writing and must be kept at
1279 the facility. This demonstration must be certified by a qualified geologist or
1280 geotechnical engineer and must establish the following:
1281
 - 1282 1) The potential for migration of hazardous waste or hazardous waste
1283 constituents from the facility to the uppermost aquifer by an evaluation of
1284 the following information:
1285
 - 1286 A) A water balance of precipitation, evapotranspiration, runoff, and
1287 infiltration; and
 - 1288 B) Unsaturated zone characteristics (i.e., geologic materials, physical
1289 properties, and depth to ground water); and
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- 2) The potential for hazardous waste or hazardous waste constituents that enter the uppermost aquifer to migrate to a water supply well or surface water by an evaluation of the following information:
 - A) Saturated zone characteristics (i.e., geologic materials, physical properties, and rate of groundwater flow); and
 - B) The proximity of the facility to water supply wells or surface water.

- d) If an owner or operator assumes (or knows) that groundwater monitoring of indicator parameters in accordance with Sections 725.191 and 725.192 would show statistically significant increases (or decreases in the case of pH) when evaluated pursuant to Section 725.193(b), it may install, operate, and maintain an alternate groundwater monitoring system (other than the one described in Sections 725.191 and 725.192). If the owner or operator decides to use an alternate groundwater monitoring system it must have done as follows:
 - 1) ~~The By November 19, 1981, the~~ owner or operator must ~~develop~~ have submitted to the USEPA Region 5 a specific plan, certified by a qualified geologist or geotechnical engineer, that satisfies the requirements of federal 40 CFR 265.93(d)(3) for an alternate groundwater monitoring system. This plan is to be placed in the facility's operating record and maintained until closure of the facility;
 - 2) ~~The By November 19, 1981, the~~ owner or operator must have initiated the determinations specified in federal 40 CFR 265.93(d)(4);
 - 3) The owner or operator must ~~prepare~~ have prepared and submitted a written report in accordance with Section 725.193(d)(5) and place it in the facility's operating record and maintain until closure of the facility;
 - 4) The owner or operator must continue to make the determinations specified in Section 725.193(d)(4) on a quarterly basis until final closure of the facility; and
 - 5) The owner or operator must comply with the recordkeeping and reporting requirements in Section 725.194(b).

- e) The groundwater monitoring requirements of this Subpart F may be waived with respect to any surface impoundment of which the following is true:

- 1334 1) The impoundment is used to neutralize wastes that are hazardous solely
- 1335 because they exhibit the corrosivity characteristic pursuant to 35 Ill. Adm.
- 1336 Code 721.122 or which are listed as hazardous wastes in Subpart D of 35
- 1337 Ill. Adm. Code 721 only for this reason; and
- 1338
- 1339 2) The impoundment contains no other hazardous wastes, if the owner or
- 1340 operator can demonstrate that there is no potential for migration of
- 1341 hazardous wastes from the impoundment. The demonstration must
- 1342 establish, based upon consideration of the characteristics of the wastes and
- 1343 the impoundment, that the corrosive wastes will be neutralized to the
- 1344 extent that they no longer meet the corrosivity characteristic before they
- 1345 can migrate out of the impoundment. The demonstration must be in
- 1346 writing and must be certified by a qualified professional.
- 1347
- 1348 f) A permit or enforceable document can contain alternative requirements for
- 1349 groundwater monitoring that replace all or part of the requirements of this Subpart
- 1350 F applicable to a regulated unit (as defined in 35 Ill. Adm. Code 724.190), as
- 1351 provided pursuant to 35 Ill. Adm. Code 703.161, where the Board has determined
- 1352 by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS
- 1353 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 the following:
- 1354
- 1355 1) The regulated unit is situated among solid waste management units (or
- 1356 areas of concern), a release has occurred, and both the regulated unit and
- 1357 one or more solid waste management units (or areas of concern) are likely
- 1358 to have contributed to the release; and
- 1359
- 1360 2) It is not necessary to apply the groundwater monitoring requirements of
- 1361 this Subpart F because the alternative requirements will adequately protect
- 1362 human health and the environment. The alternative standards for the
- 1363 regulated unit must meet the requirements of 35 Ill. Adm. Code
- 1364 724.201(a).
- 1365

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 725.193 Preparation, Evaluation and Response

- 1366
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- 1370 a) By no later than November 19, 1981, the owner or operator must have prepared
- 1371 an outline of a groundwater quality assessment program. The outline must
- 1372 describe a more comprehensive groundwater monitoring program (than that
- 1373 described in Sections 725.191 and 725.192) capable of determining each of the
- 1374 following:
- 1375
- 1376 1) Whether hazardous waste or hazardous waste constituents have entered

- 1377 the groundwater;
 1378
 1379 2) The rate and extent of migration of hazardous waste or hazardous waste
 1380 constituents in the groundwater; and
 1381
 1382 3) The concentrations of hazardous waste or hazardous waste constituents in
 1383 the groundwater.
 1384
 1385 b) For each indicator parameter specified in Section 725.192(b)(3), the owner or
 1386 operator must calculate the arithmetic mean and variance, based on at least four
 1387 replicate measurements on each sample, for each well monitored in accordance
 1388 with Section 725.192(d)(2) and compare these results with its initial background
 1389 arithmetic mean. The comparison must consider individually each of the wells in
 1390 the monitoring system and must use the Student's t-test at the 0.01 level of
 1391 significance (see Appendix D) to determine statistically significant increases (and
 1392 decreases, in the case of pH) over initial background.
 1393
 1394 c) Well comparisons.
 1395
 1396 1) If the comparisons for the upgradient wells made under subsection (b) of
 1397 this Section show a significant increase (or pH decrease) the owner or
 1398 operator must submit this information in accordance with Section
 1399 725.194(a)(2)(B).
 1400
 1401 2) If the comparisons for downgradient wells made under subsection (b) of
 1402 this Section show a significant increase (or pH decrease) the owner or
 1403 operator must then immediately obtain additional groundwater samples for
 1404 those downgradient wells where a significant difference was detected, split
 1405 the samples in two and obtain analyses of all additional samples to
 1406 determine whether the significant difference was a result of laboratory
 1407 error.
 1408
 1409 d) Notice to the Agency.
 1410
 1411 1) If the analyses performed under subsection (c)(2) of this Section confirm
 1412 the significant increase (or pH decrease) the owner or operator must
 1413 provide written notice to the Agency – within seven days after the date of
 1414 such confirmation – that the facility may be affecting groundwater quality.
 1415
 1416 2) Within 15 days after the notification under subsection (d)(1) of this
 1417 Section, the owner or operator must develop ~~and submit to the Agency~~ a
 1418 specific plan, based on the outline required under subsection (a) of this
 1419 Section and certified by a qualified geologist or geotechnical engineer for

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a groundwater quality assessment ~~program~~ at the facility. This plan must be placed in the facility operating record and be maintained until closure of the facility.

- 3) The plan to be submitted under Section 725.190(d)(1) or subsection (d)(2) of this Section must specify all of the following:
 - A) The number, location, and depth of wells;
 - B) Sampling and analytical methods for those hazardous wastes or hazardous waste constituents in the facility;
 - C) Evaluation procedures, including any use of previously gathered groundwater quality information; and
 - D) A schedule of implementation.

- 4) The owner or operator must implement the groundwater quality assessment plan that satisfies the requirements of subsection (d)(3) of this Section and, at a minimum, determine each of the following:
 - A) The rate and extent of migration of the hazardous waste or hazardous waste constituents in the groundwater; and
 - B) The concentrations of the hazardous waste or hazardous waste constituents in the groundwater.

- 5) The owner or operator must make his first determination under subsection (d)(4) of this Section, ~~as soon as technically feasible and, and prepare~~ within 15 days after that determination, submit to the Agency a written report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.

- 6) If the owner or operator determines, based on the results of the first determination under subsection (d)(4) of this Section, that no hazardous waste or hazardous waste constituents from the facility have entered the groundwater, then he may reinstate the indicator evaluation program described in Section 725.192 and subsection (b) of this Section. If the owner or operator reinstates the indicator evaluation program, he must so notify the Agency in the report submitted under subsection (d)(5) of this Section.

- 1463 7) If the owner or operator determines, based on the first determination under
1464 subsection (d)(4) of this Section, that hazardous waste or hazardous waste
1465 constituents from the facility have entered the groundwater, then the
1466 owner or operator must do either of the following:
1467
 - 1468 A) It must continue to make the determinations required under
1469 subsection (d)(4) of this Section on a quarterly basis until final
1470 closure of the facility if the groundwater quality assessment plan
1471 was implemented prior to final closure of the facility; or
1472
 - 1473 B) It may cease to make the determinations required under subsection
1474 (d)(4) of this Section if the groundwater quality assessment plan
1475 was implemented during the post-closure care period.
1476
- 1477 e) Notwithstanding any other provision of this Subpart F, any groundwater quality
1478 assessment to satisfy the requirements of subsection (d)(4) of this Section that is
1479 initiated prior to final closure of the facility must be completed and reported in
1480 accordance with subsection (d)(5) of this Section.
1481
- 1482 f) Unless the groundwater is monitored to satisfy the requirements of subsection
1483 (d)(4) of this Section at least annually the owner or operator must evaluate the
1484 data on groundwater surface elevations obtained under Section 725.192(e) to
1485 determine whether the requirements under Section 725.191(a) for locating the
1486 monitoring wells continues to be satisfied. If the evaluation shows that Section
1487 725.191(a) is no longer satisfied, the owner or operator must immediately modify
1488 the number, location or depth of the monitoring wells to bring the groundwater
1489 monitoring system into compliance with this requirement.
1490

1491 (Source: Amended at 32 Ill. Reg. _____, effective _____)
1492

1493 **SUBPART G: CLOSURE AND POST-CLOSURE CARE**
1494

1495 **Section 725.212 Closure Plan; Amendment of Plan**
1496

- 1497 a) Written plan. Within six months after the effective date of the rule that first
1498 subjects a facility to provisions of this Section, the owner or operator of a
1499 hazardous waste management facility must have a written closure plan. Until
1500 final closure is completed and certified in accordance with Section 725.215, a
1501 copy of the most current plan must be furnished to the Agency upon request
1502 including request by mail. In addition, for facilities without approved plans, it
1503 must also be provided during site inspections on the day of inspection to any
1504 officer, employee, or representative of the Agency.
1505

- 1506 b) Content of plan. The plan must identify the steps necessary to perform partial or
 1507 final closure of the facility at any point during its active life. The closure plan
 1508 must include the following minimal information:
 1509
- 1510 1) A description of how each hazardous waste management unit at the
 1511 facility will be closed in accordance with Section 725.211;
 1512
 - 1513 2) A description of how final closure of the facility will be conducted in
 1514 accordance with Section 725.211. The description must identify the
 1515 maximum extent of the operation that will be unclosed during the active
 1516 life of the facility;
 1517
 - 1518 3) An estimate of the maximum inventory of hazardous wastes ever on-site
 1519 over the active life of the facility and a detailed description of the methods
 1520 to be used during partial and final closure, including, but not limited to
 1521 methods for removing, transporting, treating, storing, or disposing of all
 1522 hazardous waste, and identification of and the types of off-site hazardous
 1523 waste management units to be used, if applicable;
 1524
 - 1525 4) A detailed description of the steps needed to remove or decontaminate all
 1526 hazardous waste residues and contaminated containment system
 1527 components, equipment, structures, and soils during partial and final
 1528 closure including, but not limited to, procedures for cleaning equipment
 1529 and removing contaminated soils, methods for sampling and testing
 1530 surrounding soils, and criteria for determining the extent of
 1531 decontamination necessary to satisfy the closure performance standard;
 1532
 - 1533 5) A detailed description of other activities necessary during the partial and
 1534 final closure ~~periods~~ to ensure that all partial closures and final
 1535 closure satisfy the closure performance standards, including, but not
 1536 limited to, groundwater monitoring, leachate collection, and runoff and
 1537 runoff control;
 1538
 - 1539 6) A schedule for closure of each hazardous waste management unit and for
 1540 final closure of the facility. The schedule must include, at a minimum, the
 1541 total time required to close each hazardous waste management unit and the
 1542 time required for intervening closure activities that will allow tracking of
 1543 the progress of partial and final closure. (For example, in the case of a
 1544 landfill unit, estimates of the time required to treat or dispose of all
 1545 hazardous waste inventory and of the time required to place a final cover
 1546 must be included.);
 1547
 - 1548 7) An estimate of the expected year of final closure for facilities that use trust

- 1549 funds to demonstrate financial assurance under Section 725.243 or
 1550 725.245 and whose remaining operating life is less than twenty years, and
 1551 for facilities without approved closure plans; and
 1552
- 1553 8) For a facility where alternative requirements are established at a regulated
 1554 unit under Section 725.190(f), 725.210(d), or 725.240(d), as provided
 1555 under 35 Ill. Adm. Code 703.161, either the alternative requirements
 1556 applying to the regulated unit or a reference to the enforceable document
 1557 containing those alternative requirements.
 1558
- 1559 c) Amendment of plan. The owner or operator may amend the closure plan at any
 1560 time prior to the notification of partial or final closure of the facility. An owner or
 1561 operator with an approved closure plan must submit a written request to the
 1562 Agency to authorize a change to the approved closure plan. The written request
 1563 must include a copy of the amended closure plan for approval by the Agency.
 1564
- 1565 1) The owner or operator must amend the closure plan whenever any of the
 1566 following occurs:
 1567
- 1568 A) Changes in the operating plans or facility design affect the closure
 1569 plan;
 1570
- 1571 B) Whenever there is a change in the expected year of closure, if
 1572 applicable;
 1573
- 1574 C) In conducting partial or final closure activities, unexpected events
 1575 require a modification of the closure plan; or
 1576
- 1577 D) The owner or operator requests the establishment of alternative
 1578 requirements, as provided under 35 Ill. Adm. Code 703.161, to a
 1579 regulated unit under Section 725.190(f), 725.210(c), or 725.240(d).
 1580
- 1581 2) The owner or operator must amend the closure plan at least 60 days prior
 1582 to the proposed change in facility design or operation, or no later than 60
 1583 days after an unexpected event has occurred that has affected the closure
 1584 plan. If an unexpected event occurs during the partial or final closure
 1585 period, the owner or operator must amend the closure plan no later than 30
 1586 days after the unexpected event. These provisions also apply to owners or
 1587 operators of surface impoundments and waste piles that intended to
 1588 remove all hazardous wastes at closure, but are required to close as
 1589 landfills in accordance with Section 725.410.
 1590
- 1591 3) An owner or operator with an approved closure plan must submit the

1592 modified plan to the Agency at least 60 days prior to the proposed change
 1593 in facility design or operation, or no more than 60 days after an
 1594 unexpected event has occurred that has affected the closure plan. If an
 1595 unexpected event has occurred during the partial or final closure period,
 1596 the owner or operator must submit the modified plan no more than 30 days
 1597 after the unexpected event. These provisions also apply to owners or
 1598 operators of surface impoundments and waste piles that intended to
 1599 remove all hazardous wastes at closure but are required to close as
 1600 landfills in accordance with Section 725.410. If the amendment to the
 1601 plan is a Class 2 or 3 modification according to the criteria in 35 Ill. Adm.
 1602 Code 703.280, the modification to the plan must be approved according to
 1603 the procedures in subsection (d)(4) of this Section.
 1604

1605 4) The Agency may request modifications to the plan under the conditions
 1606 described in subsection (c)(1) of this Section. An owner or operator with
 1607 an approved closure plan must submit the modified plan within 60 days
 1608 after the request from the Agency, or within 30 days if the unexpected
 1609 event occurs during partial or final closure. If the amendment is
 1610 considered a Class 2 or 3 modification according to the criteria in 35 Ill.
 1611 Adm. Code 703.280, the modification to the plan must be approved in
 1612 accordance with the procedures in subsection (d)(4) of this Section.
 1613

1614 d) Notification of partial closure and final closure.

1615 1) When notice is required.

1616 A) The owner or operator must submit the closure plan to the Agency
 1617 at least 180 days prior to the date on which the owner or operator
 1618 expects to begin closure of the first surface impoundment, waste
 1619 pile, land treatment, or landfill unit, or final closure if it involves
 1620 such a unit, whichever is earlier.
 1621

1622 B) The owner or operator must submit the closure plan to the Agency
 1623 at least 45 days prior to the date on which the owner or operator
 1624 expects to begin partial or final closure of a boiler or industrial
 1625 furnace.
 1626

1627 C) The owner or operator must submit the closure plan to the Agency
 1628 at least 45 days prior to the date on which the owner or operator
 1629 expects to begin final closure of a facility with only tanks,
 1630 container storage, or incinerator units.
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1632 D) An owner or operator with an approved closure plan must notify
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the Agency in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit.

- E) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace.
 - F) An owner or operator with an approved closure plan must notify the Agency in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units.
- 2) The date when the owner or operator "expects to begin closure" must be either of the following dates:
- A) Within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit demonstrates to the Agency that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and that the owner or operator has taken and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Agency must approve an extension to this one-year limit; or
 - B) For units meeting the requirements of Section 725.213(d), no later than 30 days after the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator demonstrates to the Agency that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and that the owner and operator have taken, and will continue to take, all steps to prevent threats to

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human health and the environment, including compliance with all applicable interim status requirements, the Agency must approve an extension to this one-year limit.

3) The owner or operator must submit the closure plan to the Agency no later than 15 days after occurrence of either of the following events:

- A) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or
- B) Issuance of a judicial decree or Board order to cease receiving hazardous wastes or to close the facility or unit.

4) The Agency must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications of the plan no later than 30 days from the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments and the two notices may be combined.) The Agency must approve, modify, or disapprove the plan within 90 days after its receipt. If the Agency does not approve the plan, the Agency must provide the owner or operator with a detailed written statement of reasons for the refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Agency must approve or modify this plan in writing within 60 days. If the Agency modifies the plan, this modified plan becomes the approved closure plan. The Agency must assure that the approved plan is consistent with Sections 725.211 through 725.215 and the applicable requirements of Sections 725.190 et seq., 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and ~~725.1102~~~~724.1102~~. A copy of this modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

e) Removal of wastes and decontamination or dismantling of equipment. Nothing in this Section precludes the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 725.213 Closure; Time Allowed for Closure

a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all the applicable requirements of subsections (d) and (e) of this Section at a hazardous waste management unit or facility, or 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site all hazardous wastes in accordance with the approved closure plan. The Agency must approve a longer period if the owner or operator demonstrates the following:

1) The need to remain in operation by showing either of the following conditions exists:

A) The activities required to comply with this subsection (a) will, of necessity, take longer than 90 days to complete; or

B) All of the following conditions are true:

i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) of this Section;

ii) There is a reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or facility within one year; and

iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment including compliance with all applicable interim status requirements.

b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if

1764 the owner or operator complies with all applicable requirements of subsections (d)
 1765 and (e) of this Section at the hazardous waste management unit or facility, or 180
 1766 days after approval of the closure plan, if that is later. The Agency must approve
 1767 an extension to the closure period if the owner or operator demonstrates the
 1768 following:

- 1769 1) The need to remain in operation by showing either of the following
- 1770 conditions exists:
- 1771
- 1772
- 1773 A) The partial or final closure activities will, of necessity, take longer
- 1774 than 180 days to complete; or
- 1775
- 1776 B) All of the following conditions are true:
- 1777
- 1778 i) The hazardous waste management unit or facility has the
- 1779 capacity to receive additional hazardous wastes, or the final
- 1780 volume of non-hazardous wastes, if the owner or operator
- 1781 complies with all the applicable requirements of
- 1782 subsections (d) and (e) of this Section; and
- 1783
- 1784 ii) There is a reasonable likelihood that the owner or operator
- 1785 or another person will recommence operation of the
- 1786 hazardous waste management unit or facility within one
- 1787 year; and
- 1788
- 1789 iii) Closure of the hazardous waste management unit or facility
- 1790 would be incompatible with continued operation of the site;
- 1791 and
- 1792
- 1793 2) The owner or operator has taken and will continue to take all steps to
- 1794 prevent threats to human health and the environment from the unclosed
- 1795 but not operating hazardous waste management unit or facility, including
- 1796 compliance with all applicable interim status requirements.
- 1797
- 1798 c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must
- 1799 be made as follows:
- 1800
- 1801 1) The demonstration in subsection (a)(1) of this Section must be made at
- 1802 least 30 days prior to the expiration of the 90-day period in subsection (a)
- 1803 of this Section; and
- 1804
- 1805 2) The demonstrations in subsection (b)(1) of this Section must be made at
- 1806 least 30 days prior to the expiration of the 180-day period in subsection (b)

1807 of this Section, unless the owner or operator is otherwise subject to
 1808 deadlines in subsection (d) of this Section.

1809
 1810 d) Continued receipt of non-hazardous waste. The Agency must permit an owner or
 1811 operator to receive non-hazardous wastes in a landfill, land treatment unit or
 1812 surface impoundment unit after the final receipt of hazardous wastes at that unit if
 1813 the following are true:

1814
 1815 1) The owner or operator submits an amended Part B application, or a new
 1816 Part B application if none was previously submitted, and demonstrates the
 1817 following:

1818
 1819 A) The unit has the existing design capacity as indicated on the Part A
 1820 application to receive non-hazardous wastes;

1821
 1822 B) There is a reasonable likelihood that the owner or operator or
 1823 another person will receive non-hazardous waste in the unit within
 1824 one year after the final receipt of hazardous wastes;

1825
 1826 C) The non-hazardous wastes will not be incompatible with any
 1827 remaining wastes in the unit, or with the facility design and
 1828 operating requirements of the unit or facility pursuant to this Part;

1829
 1830 D) Closure of the hazardous waste management unit would be
 1831 incompatible with continued operation of the unit or facility; and

1832
 1833 E) The owner or operator is operating and will continue to operate in
 1834 compliance with all applicable interim status requirements;

1835
 1836 2) The Part B application includes an amended waste analysis plan,
 1837 groundwater monitoring and response program, human exposure
 1838 assessment required pursuant to 35 Ill. Adm. Code 703.186, closure and
 1839 post-closure care plans, updated cost estimates, and demonstrations of
 1840 financial assurance for closure and post-closure care, as necessary and
 1841 appropriate, to reflect any changes due to the presence of hazardous
 1842 constituents in the non-hazardous wastes and changes in closure activities,
 1843 including the expected year of closure, if applicable pursuant to Section
 1844 725.212(b)(7), as a result of the receipt of non-hazardous wastes following
 1845 the final receipt of hazardous wastes;

1846
 1847 3) The Part B application is amended, as necessary and appropriate, to
 1848 account for the receipt of non-hazardous wastes following receipt of the
 1849 final volume of hazardous wastes; and

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- 4) The Part B application and the demonstrations referred to in subsections (d)(1) and (d)(2) of this Section are submitted to the Agency no later than 180 days prior to the date on which the owner or operator of the facility receives the known final volume of hazardous wastes or no later than 90 days after this Section applies to the facility, whichever is later.

- e) Surface impoundments. In addition to the requirements in subsection (d) of this Section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements in Section 725.321(a) must receive non-hazardous wastes only as authorized by an adjusted standard pursuant to this subsection (e).
 - 1) The petition for adjusted standard must include the following:
 - A) A plan for removing hazardous wastes; and
 - B) A contingent corrective measures plan.

 - 2) The removal plan must provide for the following:
 - A) Removing all hazardous liquids;
 - B) Removing all hazardous sludges to the extent practicable without impairing the integrity of the liner or liners, if any; and
 - C) Removal of hazardous wastes no later than 90 days after the final receipt of hazardous wastes. The Board will allow a longer time, if the owner or operator demonstrates the following:
 - i) That the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete; and
 - ii) That an extension will not pose a threat to human health and the environment.

 - 3) The following is required of contingent corrective measures plan:
 - A) It must meet the requirements of a corrective action plan pursuant to Section 724.199, based upon the assumption that a release has been detected from the unit.
 - B) It may be a portion of a corrective action plan previously submitted

- 1893 pursuant to Section 724.199.
1894
1895 C) It may provide for continued receipt of non-hazardous wastes at
1896 the unit following a release only if the owner or operator
1897 demonstrates that continued receipt of wastes will not impede
1898 corrective action.
1899
1900 D) It must provide for implementation within one year after a release,
1901 or within one year after the grant of the adjusted standard,
1902 whichever is later.
1903
1904 4) Release. A release is a statistically significant increase (or decrease in the
1905 case of pH) in hazardous constituents over background levels, detected in
1906 accordance with the requirements in Subpart F of this Part.
1907
1908 5) In the event of a release, the owner or operator of the unit must perform
1909 the following actions:
1910
1911 A) Within 35 days, the owner or operator must file with the Board a
1912 petition for adjusted standard pursuant to Section 28.1 of the Act
1913 [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104. If the
1914 Board finds that it is necessary to do so in order to adequately
1915 protect human health and the environment, the Board will modify
1916 the adjusted standard to require the owner or operator to perform
1917 either of the following actions:
1918
1919 i) Begin to implement the corrective measures plan in less
1920 than one year; or
1921
1922 ii) Cease the receipt of wastes until the plan has been
1923 implemented.
1924
1925 iii) The Board will retain jurisdiction or condition the adjusted
1926 standard so as to require the filing of a new petition to
1927 address any required closure pursuant to subsection (e)(7)
1928 of this Section;
1929
1930 B) The owner or operator must implement the contingent corrective
1931 measures plan; and
1932
1933 C) The owner or operator may continue to receive wastes at the unit if
1934 authorized by the approved contingent measures plan.
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- 6) ~~Annual~~Semi-annual report. During the period of corrective action, the owner or operator must provide ~~annual~~semi-annual reports to the Agency that fulfill the following requirements:
 - A) They must describe the progress of the corrective action program;
 - B) They must compile all groundwater monitoring data; and
 - C) They must evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

- 7) Required closure. The owner or operator must commence closure of the unit in accordance with the closure plan and the requirements of this Part if the Board terminates the adjusted standard, or if the adjusted standard terminates pursuant to its terms.
 - A) The Board will terminate the adjusted standard if the owner or operator failed to implement corrective action measures in accordance with the approved contingent corrective measures plan.
 - B) The Board will terminate the adjusted standard if the owner or operator fails to make substantial progress in implementing the corrective measures plan and achieving the facility's groundwater protection standard, or background levels if the facility has not yet established a groundwater protection standard.
 - C) The adjusted standard will automatically terminate if the owner or operator fails to implement the removal plan.
 - D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.

- 8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection.
 - A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104 to petition the Board for an adjusted standard.
 - B) Initial justification. The Board will grant an adjusted standard,

1979 pursuant to subsection (e)(1) of this Section, if the owner or
1980 operator demonstrates that the removal plan and contingent
1981 corrective measures plans meet the requirements of subsections
1982 (e)(2) and (e)(3) of this Section.

1983
1984 C) The Board will include the following conditions in granting an
1985 adjusted standard pursuant to subsection (e)(1) of this Section:

- 1986
- 1987 i) A plan for removing hazardous wastes;
- 1988
- 1989 ii) A requirement that the owner or operator remove hazardous
1990 wastes in accordance with the plan;
- 1991
- 1992 iii) A contingent corrective measures plan;
- 1993
- 1994 iv) A requirement that, in the event of a release, the owner or
1995 operator must, within 35 days, file with the Board a petition
1996 for adjusted standard, implement the corrective measures
1997 plan, and file semi-annual reports with the Agency;
- 1998
- 1999 v) A condition that the adjusted standard will terminate if the
2000 owner or operator fails to implement the removal plan or
2001 timely file a required petition for adjusted standard; and
- 2002
- 2003 vi) A requirement that, in the event the adjusted standard is
2004 terminated, the owner or operator must commence closure
2005 of the unit in accordance with the requirements of the
2006 closure plan and this Part.

2007
2008 D) Justification in the event of a release. The Board will modify or
2009 terminate the adjusted standard pursuant to a petition filed pursuant
2010 to subsection (e)(5)(A) of this Section, as provided in that
2011 subsection or in subsection (e)(7) of this Section.

2012
2013 9) The owner or operator may file a revised closure plan within 15 days after
2014 an adjusted standard is terminated.

2015
2016 (Source: Amended at 32 Ill. Reg. _____, effective _____)

2017
2018 **Section 725.215 Certification of Closure**

2019
2020 Within 60 days after completion of closure of each hazardous waste surface impoundment, waste
2021 pile, land treatment, and landfill unit, and within 60 days after completion of final closure, the

2022 owner or operator must submit to the Agency, by registered mail, a certification that the
 2023 hazardous waste management unit or facility, as applicable, has been closed in accordance with
 2024 the specifications in the approved closure plan. The certification must be signed by the owner or
 2025 operator and by a qualified Professional Engineer~~an independent registered professional~~
 2026 ~~engineer~~. Documentation supporting the Professional Engineer's~~independent registered~~
 2027 ~~professional engineer's~~ certification must be furnished to the Agency upon request until the
 2028 Agency releases the owner or operator from the financial assurance requirements for closure
 2029 under Section 725.243(h).

2030
 2031 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 2032

2033 **Section 725.220 Certification of Completion of Post-Closure Care**
 2034

2035 No later than 60 days after the completion of the established post-closure care period for each
 2036 hazardous waste disposal unit, the owner or operator must submit to the Agency, by registered
 2037 mail, a certification that the post-closure care period for the hazardous waste disposal unit was
 2038 performed in accordance with the specifications in the approved post-closure plan. The
 2039 certification must be signed by the owner or operator and a qualified Professional Engineer~~an~~
 2040 ~~independent registered professional engineer~~. Documentation supporting the Professional
 2041 Engineer's~~independent registered professional engineer's~~ certification must be furnished to the
 2042 Agency upon request until the Agency releases the owner or operator from the financial
 2043 assurance requirements for post-closure care under Section 725.245(h).

2044
 2045 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 2046

2047 **SUBPART H: FINANCIAL REQUIREMENTS**
 2048

2049 **Section 725.240 Applicability**
 2050

- 2051 a) The requirements of Sections 725.242, 725.243, and 725.247 through 725.250
 2052 apply to owners and operators of all hazardous waste facilities, except as provided
 2053 otherwise in this Section or in Section 725.101.
- 2054 b) The requirements of Sections 725.244 and ~~725.245~~~~725.246~~ apply only to owners
 2055 and operators of any of the following:
 2056
 - 2057 1) Disposal facilities;
 - 2058 2) Tank systems that are required pursuant to Section 725.297 to meet the
 2059 requirements for landfills; or
 - 2060 3) Containment buildings that are required pursuant to Section 725.1102 to
 2061 meet the requirements for landfills.
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- c) States and the federal government are exempt from the requirements of this Subpart H.
- d) A permit or enforceable document can contain alternative requirements that replace all or part of the financial assurance requirements of this Subpart H applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the Board or Agency has done the following:
 - 1) The Board, by an adjusted standard granted pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, has established alternative requirements for the regulated unit established pursuant to Section 725.190(f) or Section 724.210(d); and
 - 2) The Board has determined that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 725.242 Cost Estimate for Closure

- a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections ~~725.278~~, 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.
 - 1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and
 - 2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
 - 3) The closure cost estimate must not incorporate any salvage value that may

- 2108 be realized by the sale of hazardous wastes, or non-hazardous wastes if
 2109 applicable under Section 725.213(d), facility structures or equipment, land
 2110 or other facility assets at the time of partial or final closure.
 2111
 2112 4) The owner or operator must not incorporate a zero cost for hazardous
 2113 waste, or non-hazardous waste if applicable under Section 725.213(d), that
 2114 may have economic value.
 2115
 2116 b) During the active life of the facility, the owner or operator must adjust the closure
 2117 cost estimate for inflation within 60 days prior to the anniversary date of the
 2118 establishment of the financial instruments used to comply with Section 725.243.
 2119 For an owner or operator using the financial test or corporate guarantee, the
 2120 closure cost estimate must be updated for inflation within 30 days after the close
 2121 of the firm's fiscal year and before submission of updated information to the
 2122 Agency, as specified in Section 725.243(e)(5). The adjustment may be made by
 2123 recalculating the closure cost estimate in current dollars, or by using an inflation
 2124 factor derived from the most recent annual Implicit Price Deflator for Gross
 2125 National Product, as published by the U.S. Department of Commerce in its
 2126 Survey of Current Business as specified in subsections (b)(1) and (b)(2) of this
 2127 Section. The inflation factor is the result of dividing the latest published annual
 2128 Deflator by the Deflator for the previous year.
 2129
 2130 1) The first adjustment is made by multiplying the closure cost estimate by
 2131 the inflation factor. The result is the adjusted closure cost estimate.
 2132
 2133 2) Subsequent adjustments are made by multiplying the latest adjusted
 2134 closure cost estimate by the latest inflation factor.
 2135
 2136 c) During the active life of the facility, the owner or operator must revise the closure
 2137 cost estimate no later than 30 days after a revision has been made to the closure
 2138 plan that increases the cost of closure. If the owner or operator has an approved
 2139 closure plan, the closure cost estimate must be revised no later than 30 days after
 2140 the Agency has approved the request to modify the closure plan if the change in
 2141 the closure plan increases the cost of closure. The revised closure cost estimate
 2142 must be adjusted for inflation as specified in subsection (b) of this Section.
 2143
 2144 d) The owner or operator must keep the following at the facility during the operating
 2145 life of the facility: the latest closure cost estimate prepared in accordance with
 2146 subsections (a) and (c) of this Section, and, when this estimate has been adjusted
 2147 in accordance with subsection (b) of this Section, the latest adjusted closure cost
 2148 estimate.
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(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 725.243 Financial Assurance for Closure

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

- a) Closure trust fund.
 - 1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.
 - 2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251 and the trust agreement must be accompanied by a formal certification of acknowledgment as specified in 35 Ill. Adm. Code 724.251. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.
 - 3) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning May 19, 1981, or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:
 - A) The first payment must be made before May 19, 1981, except as provided in subsection (a)(5) of this Section. The first payment must be at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section, divided by the number of years in the pay-in period.
 - B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

Where:

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

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- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.
- 5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) of this Section.
- 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.
- 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
- 8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.
- 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- 10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request

- 2233 reimbursement for closure expenditures by submitting itemized bills to the
 2234 Agency. The owner or operator may request reimbursement for partial
 2235 closure only if sufficient funds are remaining in the trust fund to cover the
 2236 maximum costs of closing the facility over its remaining operating life.
 2237 Within 60 days after receiving bills for partial or final closure activities,
 2238 the Agency must instruct the trustee to make reimbursement in those
 2239 amounts as the Agency specifies in writing if the Agency determines that
 2240 the partial or final closure expenditures are in accordance with the
 2241 approved closure plan, or otherwise justified. If the Agency determines
 2242 that the maximum cost of closure over the remaining life of the facility
 2243 will be significantly greater than the value of the trust fund, it must
 2244 withhold reimbursement of such amounts as it deems prudent until it
 2245 determines, in accordance with subsection (h) of this Section, that the
 2246 owner or operator is no longer required to maintain financial assurance for
 2247 final closure of the facility. If the Agency does not instruct the trustee to
 2248 make such reimbursements, the Agency must provide the owner or
 2249 operator a detailed written statement of reasons.
 2250
- 2251 11) The Agency must agree to termination of the trust when either of the
 2252 following occurs:
 2253
 2254 A) An owner or operator substitutes alternate financial assurance, as
 2255 specified in this Section; or
 2256
 2257 B) The Agency releases the owner or operator from the requirements
 2258 of this Section in accordance with subsection (h) of this Section.
 2259
- 2260 b) Surety bond guaranteeing payment into a closure trust fund.
 2261
 2262 1) An owner or operator may satisfy the requirements of this Section by
 2263 obtaining a surety bond that conforms to the requirements of this
 2264 subsection (b) and submitting the bond to the Agency. The surety
 2265 company issuing the bond must, at a minimum, be among those listed as
 2266 acceptable sureties on federal bonds in Circular 570 of the U.S.
 2267 Department of the Treasury.
 2268
 2269 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code
 2270 724.251.
 2271
 2272 3) The owner or operator that uses a surety bond to satisfy the requirements
 2273 of this Section must also establish a standby trust fund. Under the terms
 2274 of the bond, all payments made thereunder will be deposited by the surety
 2275 directly into the standby trust fund in accordance with instructions from

- 2276 the Agency. This standby trust fund must meet the requirements specified
 2277 in subsection (a) of this Section, except as follows:
 2278
- 2279 A) An original, signed duplicate of the trust agreement must be
 2280 submitted to the Agency with the surety bond; and
 2281
 - 2282 B) Until the standby trust fund is funded pursuant to the requirements
 2283 of this Section, the following are not required by these regulations:
 2284
 - 2285 i) Payments into the trust fund, as specified in subsection (a);
 2286
 - 2287 ii) Updating of Schedule A of the trust agreement (see 35 Ill.
 2288 Adm. Code 724.251(a)) to show current closure cost
 2289 estimates;
 2290
 - 2291 iii) Annual valuations, as required by the trust agreement; and
 2292
 - 2293 iv) Notices of nonpayment, as required by the trust agreement.
 2294
- 2295 4) The bond must guarantee that the owner or operator will:
 2296
- 2297 A) Fund the standby trust fund in an amount equal to the penal sum of
 2298 the bond before the beginning of final closure of the facility;
 2299
 - 2300 B) Fund the standby trust fund in an amount equal to the penal sum
 2301 within 15 days after an order to begin final closure is issued by the
 2302 Board or a court of competent jurisdiction; or
 2303
 - 2304 C) Provide alternate financial assurance, as specified in this Section,
 2305 and obtain the Agency's written approval of the assurance
 2306 provided, within 90 days after receipt by both the owner or
 2307 operator and the Agency of a notice of cancellation of the bond
 2308 from the surety.
 2309
- 2310 5) Under the terms of the bond, the surety will become liable on the bond
 2311 obligation when the owner or operator fails to perform as guaranteed by
 2312 the bond.
 2313
- 2314 6) The penal sum of the bond must be in an amount at least equal to the
 2315 current closure cost estimate, except as provided in subsection (f) of this
 2316 Section.
 2317
- 2318 7) Whenever the current closure cost estimate increases to an amount greater

2319 than the penal sum, the owner or operator, within 60 days after the
 2320 increase, must either cause the penal sum to be increased to an amount at
 2321 least equal to the current closure cost estimate and submit evidence of
 2322 such increase to the Agency, or obtain other financial assurance, as
 2323 specified in this Section, to cover the increase. Whenever the current
 2324 closure cost estimate decreases, the penal sum may be reduced to the
 2325 amount of the current closure cost estimate following written approval by
 2326 the Agency.

- 2327
- 2328 8) Under the terms of the bond, the surety may cancel the bond by sending
 2329 notice of cancellation by certified mail to the owner or operator and to the
 2330 Agency. Cancellation may not occur, however, during the 120 days
 2331 beginning on the date of receipt of the notice of cancellation by both the
 2332 owner or operator and the Agency, as evidenced by the return receipts.
 - 2333
 - 2334 9) The owner or operator may cancel the bond if the Agency has given prior
 2335 written consent based on its receipt of evidence of alternate financial
 2336 assurance, as specified in this Section.

2337

2338 c) Closure letter of credit.

- 2339
- 2340 1) An owner or operator may satisfy the requirements of this Section by
 2341 obtaining an irrevocable standby letter of credit that conforms to the
 2342 requirements of this subsection (c) and submitting the letter to the Agency.
 2343 The issuing institution must be an entity that has the authority to issue
 2344 letters of credit and whose letter-of-credit operations are regulated and
 2345 examined by a federal or State agency.
 - 2346
 - 2347 2) The wording of the letter of credit must be as specified in 35 Ill. Adm.
 2348 Code 724.251.
 - 2349
 - 2350 3) An owner or operator that uses a letter of credit to satisfy the requirements
 2351 of this Section must also establish a standby trust fund. Under the terms
 2352 of the letter of credit, all amounts paid pursuant to a draft by the Agency
 2353 must be deposited by the issuing institution directly into the standby trust
 2354 fund in accordance with instructions from the Agency. This standby trust
 2355 fund must meet the requirements of the trust fund specified in subsection
 2356 (a) of this Section, except as follows:
 - 2357
 - 2358 A) An original, signed duplicate of the trust agreement must be
 2359 submitted to the Agency with the letter of credit; and
 - 2360
 - 2361 B) Unless the standby trust fund is funded pursuant to the

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requirements of this Section, the following are not required by these regulations:

- i) Payments into the trust fund, as specified in subsection (a) of this Section;
 - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment as required by the trust agreement.
- 4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.
 - 5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
 - 6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.
 - 7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

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- 8) Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Agency may draw on the letter of credit.
 - 9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
 - 10) The Agency must return the letter of credit to the issuing institution for termination when one of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.
 - d) Closure insurance.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.
 - 2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.
 - 3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future

- 2448 liability will be lowered by the amount of the payments.
 2449
- 2450 4) The closure insurance policy must guarantee that funds will be available to
 2451 close the facility whenever final closure occurs. The policy must also
 2452 guarantee that, once final closure begins, the insurer will be responsible
 2453 for paying out funds, up to an amount equal to the face amount of the
 2454 policy, upon the direction of the Agency to such party or parties as the
 2455 Agency specifies.
 2456
- 2457 5) After beginning partial or final closure, an owner or operator or any other
 2458 person authorized to conduct closure may request reimbursement for
 2459 closure expenditures by submitting itemized bills to the Agency. The
 2460 owner or operator may request reimbursement for partial closure only if
 2461 the remaining value of the policy is sufficient to cover the maximum costs
 2462 of closing the facility over its remaining operating life. Within 60 days
 2463 after receiving bills for closure activities, the Agency must instruct the
 2464 insurer to make reimbursement in such amounts as the Agency specifies in
 2465 writing if the Agency determines that the partial or final closure
 2466 expenditures are in accordance with the approved closure plan or
 2467 otherwise justified. If the Agency determines that the maximum cost of
 2468 closure over the remaining life of the facility will be significantly greater
 2469 than the face amount of the policy, it must withhold reimbursement of
 2470 such amounts as it deems prudent until it determines, in accordance with
 2471 subsection (h) of this Section, that the owner or operator is no longer
 2472 required to maintain financial assurance for final closure of the particular
 2473 facility. If the Agency does not instruct the insurer to make such
 2474 reimbursements, the Agency must provide the owner or operator with a
 2475 detailed written statement of reasons.
 2476
- 2477 6) The owner or operator must maintain the policy in full force and effect
 2478 until the Agency consents to termination of the policy by the owner or
 2479 operator as specified in subsection (d)(10) of this Section. Failure to pay
 2480 the premium, without substitution of alternate financial assurance as
 2481 specified in this Section, will constitute a significant violation of these
 2482 regulations, warranting such remedy as the Board may impose pursuant to
 2483 the Environmental Protection Act. Such violation will be deemed to begin
 2484 upon receipt by the Agency of a notice of future cancellation, termination,
 2485 or failure to renew due to nonpayment of the premium, rather than upon
 2486 the date of expiration.
 2487
- 2488 7) Each policy must contain a provision allowing assignment of the policy to
 2489 a successor owner or operator. Such assignment may be conditional upon
 2490 consent of the insurer, provided such consent is not unreasonably refused.

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- 8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:
- A) The Agency deems the facility abandoned;
 - B) Interim status is terminated or revoked;
 - C) Closure is ordered by the Board or a court of competent jurisdiction;
 - D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
 - E) The premium due is paid.
- 9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Agency.
- 10) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:
- A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

- e) Financial test and corporate guarantee for closure.
 - 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this subsection. To pass this 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 all of the following:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
 - B) The owner or operator must have all of the following:
 - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and

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- 5) After the initial submission of items specified in subsection (e)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3) of this Section.

- 6) If the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must send notice to the Agency of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

- 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1) of this Section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.

- 8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (e)(3)(B) of this Section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of the disallowance.

- 9) The owner or operator is no longer required to submit the items specified in subsection (e)(3) of this Section when either of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

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- 10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (e)(1) through (e)(8) of this Section, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm. Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide the following:
- A) That, if the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) of this Section, in the name of the owner or operator.
 - B) That the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.
 - C) That, if the owner or operator fails to provide alternate financial assurance as specified in this Section and obtain the written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

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- f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of this Section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in subsections (a) through (d) of this Section, respectively, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Agency may use any or all of the mechanisms to provide for closure of the facility.

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

- h) Release of the owner or operator from the requirements of this Section. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer ~~an independent registered professional engineer~~ that final closure has been completed in accordance with the approved closure plan, the Agency must notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain financial assurance for closure of the facility, unless the Agency determines that closure has not been in accordance with the approved closure plan. The Agency must provide the owner or operator a detailed written statement of any such determination that closure has not been in accordance with the approved closure plan.

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

- 2749 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
2750 credit, or insurance; or
- 2751
- 2752 2) Requiring alternate assurance upon a finding that an owner or operator or
2753 parent corporation no longer meets a financial test.
- 2754

2755 (Source: Amended at 32 Ill. Reg. _____, effective _____)

2756

Section 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance

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2758

2759 An owner or operator of a facility with a hazardous waste disposal unit must establish financial
2760 assurance for post-closure care of the disposal units. The owner or operator must choose from
2761 the following options:

- 2762 a) Post-closure trust fund.
- 2763
- 2764
- 2765 1) An owner or operator may satisfy the requirements of this Section by
2766 establishing a post-closure trust fund that conforms to the requirements of
2767 this subsection and submitting an original, signed duplicate of the trust
2768 agreement to the Agency. The trustee must be an entity that has the
2769 authority to act as a trustee and whose trust operations are regulated and
2770 examined by a federal or State agency.
- 2771
- 2772 2) The wording of the trust agreement must be as specified in 35 Ill. Adm.
2773 Code 724.251 and the trust agreement must be accompanied by a formal
2774 certification of acknowledgment (as specified in 35 Ill. Adm. Code
2775 724.251). Schedule A of the trust agreement must be updated within 60
2776 days after a change in the amount of the current post-closure cost estimate
2777 covered by the agreement.
- 2778
- 2779 3) Payments into the trust fund must be made annually by the owner or
2780 operator over the 20 years beginning May 19, 1981, or over the remaining
2781 operating life of the facility as estimated in the closure plan, whichever
2782 period is shorter; this period is hereafter referred to as the "pay-in period."
2783 The payments into the post-closure trust fund must be made as follows:
- 2784
- 2785 A) The first payment must have been made before May 19, 1981,
2786 except as provided in subsection (a)(5) of this Section. The first
2787 payment must be at least equal to the current post-closure cost
2788 estimate, except as provided in subsection (f) of this Section,
2789 divided by the number of years in the pay-in period.
- 2790
- 2791 B) Subsequent payments must be made no later than 30 days after

2792 each anniversary date of the first payment. The amount of each
 2793 subsequent payment must be determined by this formula:
 2794

$$\text{Next payment} = \frac{CE - CV}{Y}$$

2795
 2796
 2797 Where:
 2798

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

- 2799
 2800 4) The owner or operator may accelerate payments into the trust fund or may
 2801 deposit the full amount of the current post-closure cost estimate at the time
 2802 the fund is established. However, the owner or operator must maintain the
 2803 value of the fund at no less than the value that the fund would have if
 2804 annual payments were made as specified in subsection (a)(3) of this
 2805 Section.
 2806
 2807 5) If the owner or operator establishes a post-closure trust fund after having
 2808 used one or more alternate mechanisms specified in this Section, the
 2809 owner or operator's first payment must be in at least the amount that the
 2810 fund would contain if the trust fund were established initially and annual
 2811 payments made as specified in subsection (a)(3) of this Section.
 2812
 2813 6) After the pay-in period is completed, whenever the current post-closure
 2814 cost estimate changes during the operating life of the facility, the owner or
 2815 operator must compare the new estimate with the trustee's most recent
 2816 annual valuation of the trust fund. If the value of the fund is less than the
 2817 amount of the new estimate, the owner or operator, within 60 days after
 2818 the change in the cost estimate, must either deposit an amount into the
 2819 fund so that its value after this deposit at least equals the amount of the
 2820 current post-closure cost estimate, or obtain other financial assurance as
 2821 specified in this Section to cover the difference.
 2822
 2823 7) During the operating life of the facility, if the value of the trust fund is
 2824 greater than the total amount of the current post-closure cost estimate, the
 2825 owner or operator may submit a written request to the Agency for release
 2826 of the amount in excess of the current post-closure cost estimate.
 2827
 2828 8) If an owner or operator substitutes other financial assurance as specified in
 2829 this Section for all or part of the trust fund, owner or operator may submit
 2830 a written request to the Agency for release of the amount in excess of the

- 2831 current post-closure cost estimate covered by the trust fund.
 2832
 2833 9) Within 60 days after receiving a request from the owner or operator for
 2834 release of funds as specified in subsection (a)(7) or (a)(8) of this Section,
 2835 the Agency must instruct the trustee to release to the owner or operator
 2836 such funds as the Agency specifies in writing.
 2837
 2838 10) During the period of post-closure care, the Agency must approve a release
 2839 of funds if the owner or operator demonstrates to the Agency that the
 2840 value of the trust fund exceeds the remaining cost of post-closure care.
 2841
 2842 11) An owner or operator or any other person authorized to perform post-
 2843 closure care may request reimbursement for post-closure care expenditures
 2844 by submitting itemized bills to the Agency. Within 60 days after receiving
 2845 bills for post-closure activities, the Agency must instruct the trustee to
 2846 make reimbursement in those amounts as the Agency specifies in writing
 2847 if the Agency determines that the post-closure care expenditures are in
 2848 accordance with the approved post-closure plan or otherwise justified. If
 2849 the Agency does not instruct the trustee to make such reimbursements, the
 2850 Agency must provide the owner or operator with a detailed written
 2851 statement of reasons.
 2852
 2853 12) The Agency must agree to termination of a trust when either of the
 2854 following occurs:
 2855
 2856 A) An owner or operator substitutes alternate financial assurance, as
 2857 specified in this Section; or
 2858
 2859 B) The Agency releases the owner or operator from the requirements
 2860 of this Section in accordance with subsection (h) of this Section.
 2861
 2862 b) Surety bond guaranteeing payment into a post-closure trust fund.
 2863
 2864 1) An owner or operator may satisfy the requirements of this Section by
 2865 obtaining a surety bond that conforms to the requirements of this
 2866 subsection (b) and submitting the bond to the Agency. The surety
 2867 company issuing the bond must, at a minimum, be among those listed as
 2868 acceptable sureties on federal bonds in Circular 570 of the U.S.
 2869 Department of the Treasury.
 2870
 2871 BOARD NOTE: The U.S. Department of the Treasury updates Circular
 2872 570, "Companies Holding Certificates of Authority as Acceptable Sureties
 2873 on Federal Bonds and as Acceptable Reinsuring Companies," on an annual

- 2874 basis pursuant to 31 CRF 223.16. Circular 570 is available on the Internet
 2875 from the following website: <http://www.fms.treas.gov/c570/>.
 2876
- 2877 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code
 2878 724.251.
 2879
- 2880 3) The owner or operator that uses a surety bond to satisfy the requirements
 2881 of this Section must also establish a standby trust fund. Under the terms
 2882 of the bond, all payments made thereunder will be deposited by the surety
 2883 directly into the standby trust fund in accordance with instructions from
 2884 the Agency. This standby trust fund must meet the requirements specified
 2885 in subsection (a) of this Section, except as follows:
 2886
- 2887 A) An original, signed duplicate of the trust agreement must be
 2888 submitted to the Agency with the surety bond; and
 2889
- 2890 B) Until the standby trust fund is funded pursuant to the requirements
 2891 of this Section, the following are not required by these regulations:
 2892
- 2893 i) Payments into the trust fund, as specified in subsection (a)
 2894 of this Section;
 2895
- 2896 ii) Updating of Schedule A of the trust agreement (as specified
 2897 in 35 Ill. Adm. Code 724.251) to show current post-closure
 2898 cost estimates;
 2899
- 2900 iii) Annual valuations, as required by the trust agreement; and
 2901
- 2902 iv) Notices of nonpayment, as required by the trust agreement.
 2903
- 2904 4) The bond must guarantee that the owner or operator will perform the
 2905 following acts:
 2906
- 2907 A) Fund the standby trust fund in an amount equal to the penal sum of
 2908 the bond before the beginning of final closure of the facility; or
 2909
- 2910 B) Fund the standby trust fund in an amount equal to the penal sum
 2911 within 15 days after an order to begin closure is issued by the
 2912 Board or a court of competent jurisdiction; or
 2913
- 2914 C) Provide alternate financial assurance, as specified in this Section,
 2915 and obtain the Agency's written approval of the assurance
 2916 provided, within 90 days after receipt by both the owner or

- 2917 operator and the Agency of a notice of cancellation of the bond
 2918 from the surety.
 2919
- 2920 5) Under the terms of the bond, the surety will become liable on the bond
 2921 obligation when the owner or operator fails to perform as guaranteed by
 2922 the bond.
 2923
- 2924 6) The penal sum of the bond must be in an amount at least equal to the
 2925 current post-closure cost estimate, except as provided in subsection (f) of
 2926 this Section.
 2927
- 2928 7) Whenever the current post-closure cost estimate increases to an amount
 2929 greater than the penal sum, the owner or operator, within 60 days after the
 2930 increase, must either cause the penal sum to be increased to an amount at
 2931 least equal to the current post-closure cost estimate and submit evidence of
 2932 such increase to the Agency or obtain other financial assurance as
 2933 specified in this Section to cover the increase. Whenever the current post-
 2934 closure cost estimate decreases, the penal sum may be reduced to the
 2935 amount of the current post-closure cost estimate following written
 2936 approval by the Agency.
 2937
- 2938 8) Under the terms of the bond, the surety may cancel the bond by sending
 2939 notice of cancellation by certified mail to the owner or operator and to the
 2940 Agency. Cancellation may not occur, however, during the 120 days
 2941 beginning on the date of receipt of the notice of cancellation by both the
 2942 owner or operator and the Agency, as evidenced by the return receipts.
 2943
- 2944 9) The owner or operator may cancel the bond if the Agency has given prior
 2945 written consent based on its receipt of evidence of alternate financial
 2946 assurance as specified in this Section.
 2947
- 2948 c) Post-closure letter of credit.
- 2949
- 2950 1) An owner or operator may satisfy the requirements of this Section by
 2951 obtaining an irrevocable standby letter of credit that conforms to the
 2952 requirements of this subsection (c) and submitting the letter to the Agency.
 2953 The issuing institution must be an entity that has the authority to issue
 2954 letters of credit and whose letter-of-credit operations are regulated and
 2955 examined by a federal or State agency.
 2956
- 2957 2) The wording of the letter of credit must be as specified in 35 Ill. Adm.
 2958 Code 724.251.
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- 3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) of this Section, except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a) of this Section;
 - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.151) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
 - 4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.
 - 5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
 - 6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f) of

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this Section.

- 7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
- 8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.
- 9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other interim status requirements, the Agency may draw on the letter of credit.
- 10) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days after any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
- 11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.

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- d) Post-closure insurance.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.
 - 2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.
 - 3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure estimate, except as provided in subsection (f) of this Section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
 - 4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency, to such party or parties as the Agency specifies.
 - 5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing, if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.
 - 6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (d)(11) of this Section. Failure to pay the premium, without substitution of alternate financial assurance, as specified in this Section, will constitute a significant violation of these

- 3089 regulations, warranting such remedy as the Board may impose pursuant to
 3090 the Environmental Protection Act. Such violation will be deemed to begin
 3091 upon receipt by the Agency of a notice of future cancellation, termination,
 3092 or failure to renew due to nonpayment of the premium, rather than upon
 3093 the date of expiration.
 3094
- 3095 7) Each policy must contain a provision allowing assignment of the policy to
 3096 a successor owner or operator. Such assignment may be conditional upon
 3097 consent of the insurer, provided such consent is not unreasonably refused.
 3098
- 3099 8) The policy must provide that the insurer may not cancel, terminate, or fail
 3100 to renew the policy except for failure to pay the premium. The automatic
 3101 renewal of the policy must, at a minimum, provide the insured with the
 3102 option of renewal at the face amount of the expiring policy. If there is a
 3103 failure to pay the premium, the insurer may elect to cancel, terminate, or
 3104 fail to renew the policy by sending notice by certified mail to the owner or
 3105 operator and the Agency. Cancellation, termination, or failure to renew
 3106 may not occur, however, during the 120 days beginning with the date of
 3107 receipt of the notice by both the Agency and the owner or operator, as
 3108 evidenced by the return receipts. Cancellation, termination, or failure to
 3109 renew may not occur, and the policy will remain in full force and effect in
 3110 the event that, on or before the date of expiration, one of the following
 3111 occurs:
 3112
- 3113 A) The Agency deems the facility abandoned;
 - 3114
 - 3115 B) Interim status is terminated or revoked;
 - 3116
 - 3117 C) Closure is ordered by the Board or a court of competent
 3118 jurisdiction;
 - 3119
 - 3120 D) The owner or operator is named as debtor in a voluntary or
 3121 involuntary proceeding under 11 USC (Bankruptcy); or
 - 3122
 - 3123 E) The premium due is paid.
 - 3124
- 3125 9) Whenever the current post-closure cost estimate increases to an amount
 3126 greater than the face amount of the policy during the operating life of the
 3127 facility, the owner or operator, within 60 days after the increase, must
 3128 either cause the face amount to be increased to an amount at least equal to
 3129 the current post-closure cost estimate and submit evidence of such
 3130 increase to the Agency, or obtain other financial assurance, as specified in
 3131 this Section, to cover the increase. Whenever the current post-closure cost

- 3132 estimate decreases during the operating life of the facility, the face amount
 3133 may be reduced to the amount of the current post-closure cost estimate
 3134 following written approval by the Agency.
 3135
- 3136 10) Commencing on the date that liability to make payments pursuant to the
 3137 policy accrues, the insurer must thereafter annually increase the face
 3138 amount of the policy. Such increase must be equivalent to the face
 3139 amount of the policy, less any payments made, multiplied by an amount
 3140 equivalent to 85 percent of the most recent investment rate or of the
 3141 equivalent coupon-issue yield announced by the U.S. Treasury for 26-
 3142 week Treasury securities.
 3143
- 3144 11) The Agency must give written consent to the owner or operator that the
 3145 owner or operator may terminate the insurance policy when either of the
 3146 following occurs:
 3147
- 3148 A) An owner or operator substitutes alternate financial assurance, as
 3149 specified in this Section; or
 3150
- 3151 B) The Agency releases the owner or operator from the requirements
 3152 of this Section in accordance with subsection (h) of this Section.
 3153
- 3154 e) Financial test and corporate guarantee for post-closure care.
 3155
- 3156 1) An owner or operator may satisfy the requirements of this Section by
 3157 demonstrating that the owner or operator passes a financial test, as
 3158 specified in this subsection (e). To pass this test the owner or operator
 3159 must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) of this
 3160 Section:
 3161
- 3162 A) The owner or operator must have each of the following:
 3163
- 3164 i) Two of the following three ratios: a ratio of total liabilities
 3165 to net worth less than 2.0; a ratio of the sum of net income
 3166 plus depreciation, depletion and amortization to total
 3167 liabilities greater than 0.1; and a ratio of current assets to
 3168 current liabilities greater than 1.5;
 3169
- 3170 ii) Net working capital and tangible net worth each at least six
 3171 times the sum of the current closure and post-closure cost
 3172 estimates and the current plugging and abandonment cost
 3173 estimates;
 3174

- 3175 iii) Tangible new worth of at least \$10 million; and
 3176
 3177 iv) Assets in the United States amounting to at least 90 percent
 3178 of total assets or at least six times the sum of the current
 3179 closure and post-closure cost estimates and the plugging
 3180 and abandonment cost estimates.
 3181
 3182 B) The owner or operator must have each of the following:
 3183
 3184 i) A current rating for its most recent bond issuance of AAA,
 3185 AA, A, or BBB, as issued by Standard and Poor's, or Aaa,
 3186 Aa, A, or Baa, as issued by Moody's;
 3187
 3188 ii) Tangible net worth at least six times the sum of the current
 3189 closure and post-closure cost estimates and the current
 3190 plugging and abandonment cost estimates;
 3191
 3192 iii) Tangible net worth of at least \$10 million; and
 3193
 3194 iv) Assets located in the United States amounting to at least 90
 3195 percent of its total assets or at least six times the sum of the
 3196 current closure and post-closure cost estimates and the
 3197 current plugging and abandonment cost estimates.
 3198
 3199 2) The phrase "current closure and post-closure cost estimates," as used in
 3200 subsection (e)(1) of this Section, refers to the cost estimates required to be
 3201 shown in subsections 1 through 4 of the letter from the owner's or
 3202 operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The
 3203 phrases "current plugging and abandonment cost estimates," as used in
 3204 subsection (e)(1) of this Section, refers to the cost estimates required to be
 3205 shown in subsections 1 through 4 of the letter from the owner's or
 3206 operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
 3207
 3208 3) To demonstrate that it meets this test, the owner or operator must submit
 3209 each of the following items to the Agency:
 3210
 3211 A) A letter signed by the owner's or operator's chief financial officer
 3212 and worded as specified in 35 Ill. Adm. Code 724.251;
 3213
 3214 B) A copy of the independent certified public accountant's report on
 3215 examination of the owner's or operator's financial statements for
 3216 the latest completed fiscal year; and
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- C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating both of the following:
 - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
- 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.
- 5) After the initial submission of items specified in subsection (e)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3) of this Section.
- 6) If the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must send notice to the Agency of intent to establish alternate financial assurance, as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.
- 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1) of this Section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3) of this Section. If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1) of this Section, the owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after

- 3261 notification of such a finding.
 3262
 3263 8) The Agency may disallow use of this test on the basis of qualifications in
 3264 the opinion expressed by the independent certified public accountant in the
 3265 accountant's report on examination of the owner's or operator's financial
 3266 statements (see subsection (e)(3)(B) of this Section). An adverse opinion
 3267 or a disclaimer of opinion will be cause for disallowance. The Agency
 3268 must evaluate other qualifications on an individual basis. The owner or
 3269 operator must provide alternate financial assurance, as specified in this
 3270 Section, within 30 days after notification of the disallowance.
 3271
 3272 9) During the period of post-closure care, the Agency must approve a
 3273 decrease in the current post-closure cost estimate for which this test
 3274 demonstrates financial assurance if the owner or operator demonstrates to
 3275 the Agency that the amount of the cost estimate exceeds the remaining
 3276 cost of post-closure care.
 3277
 3278 10) The owner or operator is no longer required to submit the items specified
 3279 in subsection (e)(3) of this Section when either of the following occurs:
 3280
 3281 A) An owner or operator substitutes alternate financial assurance, as
 3282 specified in this Section; or
 3283
 3284 B) The Agency releases the owner or operator from the requirements
 3285 of this Section in accordance with subsection (h) of this Section.
 3286
 3287 11) An owner or operator may meet the requirements of this Section by
 3288 obtaining a written guarantee, hereafter referred to as "corporate
 3289 guarantee." The guarantor must be the direct or higher-tier parent
 3290 corporation of the owner or operator, a firm whose parent corporation is
 3291 also the parent corporation of the owner or operator, or a firm with a
 3292 "substantial business relationship" with the owner or operator. The
 3293 guarantor must meet the requirements for owners or operators in
 3294 subsections (e)(1) through (e)(9) of this Section, and must comply with the
 3295 terms of the corporate guarantee. The wording of the corporate guarantee
 3296 must be identical to the wording specified in 35 Ill. Adm. Code 724.251.
 3297 The corporate guarantee must accompany the items sent to the Agency as
 3298 specified in subsection (e)(3) of this Section. One of these items must be
 3299 the letter from the guarantor's chief financial officer. If the guarantor's
 3300 parent corporation is also the parent corporation of the owner or operator,
 3301 the letter must describe the value received in consideration of the
 3302 guarantee. If the guarantor is a firm with a "substantial business
 3303 relationship" with the owner or operator, this letter must describe this

3304 substantial business relationship" and the value received in consideration
 3305 of the guarantee. The terms of the corporate guarantee must provide as
 3306 follows:

3307
 3308 A) That, if the owner or operator fails to perform post-closure care of
 3309 a facility covered by the corporate guarantee in accordance with
 3310 the post-closure plan and other interim status requirements
 3311 whenever required to do so, the guarantor will do so or establish a
 3312 trust fund as specified in subsection (a) of this Section, in the name
 3313 of the owner or operator.

3314
 3315 B) That the corporate guarantee will remain in force unless the
 3316 guarantor sends notice of cancellation by certified mail to the
 3317 owner or operator and to the Agency. Cancellation may not occur,
 3318 however, during the 120 days beginning on the date of receipt of
 3319 the notice of cancellation by both the owner or operator and the
 3320 Agency, as evidenced by the return receipts.

3321
 3322 C) That, if the owner or operator fails to provide alternate financial
 3323 assurance, as specified in this Section, and obtain the written
 3324 approval of such alternate assurance from the Agency within 90
 3325 days after receipt by both the owner or operator and the Agency of
 3326 a notice of cancellation of the corporate guarantee from the
 3327 guarantor, the guarantor will provide such alternate financial
 3328 assurance in the name of the owner or operator.

3329
 3330 f) Use of multiple financial mechanisms. An owner or operator may satisfy the
 3331 requirements of this Section by establishing more than one financial mechanism
 3332 per facility. These mechanisms are limited to trust funds, surety bonds, letters of
 3333 credit, and insurance. The mechanisms must be as specified in subsections (a)
 3334 through (d) of this Section, respectively, except that it is the combination of
 3335 mechanisms, rather than the single mechanism, that must provide financial
 3336 assurance for an amount at least equal to the current post-closure cost estimate. If
 3337 an owner or operator uses a trust fund in combination with a surety bond or a
 3338 letter of credit, it may use the trust fund as the standby trust fund for the other
 3339 mechanisms. A single standby trust fund may be established for two or more
 3340 mechanisms. The Agency may use any or all of the mechanisms to provide for
 3341 post-closure care of the facility.

3342
 3343 g) Use of a financial mechanism for multiple facilities. An owner or operator may
 3344 use a financial assurance mechanism specified in this Section to meet the
 3345 requirements of this Section for more than one facility. Evidence of financial
 3346 assurance submitted to the Agency must include a list showing, for each facility,

3347 the USEPA Identification Number, name, address, and the amount of funds for
 3348 post-closure care assured by the mechanism. The amount of funds available
 3349 through the mechanism must be no less than the sum of funds that would be
 3350 available if a separate mechanism had been established and maintained for each
 3351 facility. The amount of funds available to the Agency must be sufficient to
 3352 provide post-closure care for all of the owner or operator's facilities. In directing
 3353 funds available through the mechanism for post-closure care of any of the
 3354 facilities covered by the mechanism, the Agency may direct only the amount of
 3355 funds designated for that facility, unless the owner or operator agrees to the use of
 3356 additional funds available under the mechanism.

3357
 3358 h) Release of the owner or operator from the requirements of this Section. Within
 3359 60 days after receiving certifications from the owner or operator and a qualified
 3360 Professional Engineer~~an independent registered professional engineer~~ that the
 3361 post-closure care period has been completed in accordance with the approved
 3362 post-closure plan, the Agency must notify the owner or operator in writing that
 3363 the owner or operator is no longer required by this Section to maintain financial
 3364 assurance for post-closure care of that unit, unless the Agency determines that
 3365 post-closure care has not been in accordance with the approved post-closure plan.
 3366 The Agency must provide the owner or operator a detailed written statement of
 3367 any such determination that post-closure care has not been in accordance with the
 3368 approved post-closure plan.

3369
 3370 i) Appeal. The following Agency actions are deemed to be permit modifications or
 3371 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 3372 702.184(e)(3)):

- 3373 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 3374 credit, or insurance; or
- 3375 2) Requiring alternate assurance upon a finding that an owner or operator or
 3376 parent corporation no longer meets a financial test.

3377
 3378
 3379 (Source: Amended at 32 Ill. Reg. _____, effective _____)

3380
 3381
 3382 **Section 725.247 Liability Requirements**

3383
 3384 a) Coverage for sudden accidental occurrences. An owner or operator of a
 3385 hazardous waste treatment, storage, or disposal facility, or a group of such
 3386 facilities, must demonstrate financial responsibility for bodily injury and property
 3387 damage to third parties caused by sudden accidental occurrences arising from
 3388 operations of the facility or group of facilities. The owner or operator must have
 3389 and maintain liability coverage for sudden accidental occurrences in the amount

3390 of at least \$1 million per occurrence with an annual aggregate of at least \$2
3391 million, exclusive of legal defense costs. This liability coverage may be
3392 demonstrated, as specified in subsections (a)(1) through (a)(6) of this Section:
3393

3394 1) An owner or operator may demonstrate the required liability coverage by
3395 having liability insurance, as specified in this subsection (a)(1).
3396

3397 A) Each insurance policy must be amended by attachment of the
3398 Hazardous Waste Facility Liability Endorsement or evidenced by a
3399 Certificate of Liability Insurance. The wording of the endorsement
3400 and of the certificate of insurance must be as specified in 35 Ill.
3401 Adm. Code 724.251. ~~The wording of the certificate of insurance~~
3402 ~~must be as specified in 35 Ill. Adm. Code 724.251.~~—The owner or
3403 operator must submit a signed duplicate original of the
3404 endorsement or the certificate of insurance to the Agency. If
3405 requested by the Agency, the owner or operator must provide a
3406 signed duplicate original of the insurance policy.
3407

3408 B) Each insurance policy must be issued by an insurer that is licensed
3409 by the Illinois Department of Financial and Professional
3410 Regulation, Division of Insurance.
3411

3412 2) An owner or operator may meet the requirements of this Section by
3413 passing a financial test or using the guarantee for liability coverage, as
3414 specified in subsections (f) and (g) of this Section.
3415

3416 3) An owner or operator may meet the requirements of this Section by
3417 obtaining a letter of credit for liability coverage, as specified in subsection
3418 (h) of this Section.
3419

3420 4) An owner or operator may meet the requirements of this Section by
3421 obtaining a surety bond for liability coverage, as specified in subsection (i)
3422 of this Section.
3423

3424 5) An owner or operator may meet the requirements of this Section by
3425 obtaining a trust fund for liability coverage, as specified in subsection (j)
3426 of this Section.
3427

3428 6) An owner or operator may demonstrate the required liability coverage
3429 through the use of combinations of insurance, financial test, guarantee,
3430 letter of credit, surety bond, and trust fund, except that the owner or
3431 operator may not combine a financial test covering part of the liability
3432 coverage requirement with a guarantee unless the financial statement of

3433 the owner or operator is not consolidated with the financial statement of
 3434 the guarantor. The amounts of coverage demonstrated must total at least
 3435 the minimum amounts required by this Section. If the owner or operator
 3436 demonstrates the required coverage through the use of a combination of
 3437 financial assurances pursuant to this subsection ~~(a)(b)(6)~~, the owner or
 3438 operator must specify at least one such assurance as "primary" coverage,
 3439 and must specify other such assurance as "excess" coverage.

- 3440
- 3441 7) An owner or operator must notify the Agency within 30 days whenever
 3442 one of the following occurs:
- 3443
- 3444 A) A claim results in a reduction in the amount of financial assurance
 3445 for liability coverage provided by a financial instrument authorized
 3446 in subsections (a)(1) through (a)(6) of this Section;
- 3447
- 3448 B) A Certification of Valid Claim for bodily injury or property
 3449 damages caused by sudden or non-sudden accidental occurrence
 3450 arising from the operation of a hazardous waste treatment, storage,
 3451 or disposal facility is entered between the owner or operator and
 3452 third-party claimant for liability coverage pursuant to subsections
 3453 (a)(1) through (a)(6) of this Section; or
- 3454
- 3455 C) A final court order establishing a judgment for bodily injury or
 3456 property damage caused by a sudden or non-sudden accidental
 3457 occurrence arising from the operation of a hazardous waste
 3458 treatment, storage, or disposal facility is issued against the owner
 3459 or operator or an instrument that is providing financial assurance
 3460 for liability coverage pursuant to subsections (a)(1) through (a)(6)
 3461 of this Section.

3462

3463 b) Coverage for nonsudden accidental occurrences. An owner or operator of a
 3464 surface impoundment, landfill, or land treatment facility that is used to manage
 3465 hazardous waste, or a group of such facilities, must demonstrate financial
 3466 responsibility for bodily injury and property damage to third parties caused by
 3467 nonsudden accidental occurrences arising from operations of the facility or group
 3468 of facilities. The owner or operator must have and maintain liability coverage for
 3469 nonsudden accidental occurrences in the amount of at least \$3 million per
 3470 occurrence with an annual aggregate of at least \$6 million, exclusive of legal
 3471 defense costs. An owner or operator meeting the requirements of this Section
 3472 may combine the required per-occurrence coverage levels for sudden and
 3473 nonsudden accidental occurrences into a single per-occurrence level, and combine
 3474 the required annual aggregate coverage levels for sudden and nonsudden
 3475 accidental occurrences into a single annual aggregate level. An owner or operator

3476 that combines coverage levels for sudden and nonsudden accidental occurrences
3477 must maintain liability coverage in the amount of at least \$4 million per
3478 occurrence and \$8 million annual aggregate. This liability coverage may be
3479 demonstrated, as specified in subsections (b)(1) through (b)(6) of this Section:
3480

3481 1) An owner or operator may demonstrate the required liability coverage by
3482 having liability insurance, as specified in this subsection (b)(1).
3483

3484 A) Each insurance policy must be amended by attachment of the
3485 Hazardous Waste Facility Liability Endorsement or evidenced by a
3486 Certificate of Liability Insurance. The wording of the endorsement
3487 must be as specified in 35 Ill. Adm. Code 724.251. The wording
3488 of the certificate of insurance must be as specified in 35 Ill. Adm.
3489 Code 724.251. The owner or operator must submit a signed
3490 duplicate original of the endorsement or the certificate of insurance
3491 to the Agency. If requested by the Agency, the owner or operator
3492 must provide a signed duplicate original of the insurance policy.
3493

3494 B) Each insurance policy must be issued by an insurer that is licensed
3495 by the Illinois Department of Financial and Professional
3496 Regulation, Division of Insurance.
3497

3498 2) An owner or operator may meet the requirements of this Section by
3499 passing a financial test or using the guarantee for liability coverage, as
3500 specified in subsections (f) and (g) of this Section.
3501

3502 3) An owner or operator may meet the requirements of this Section by
3503 obtaining a letter of credit for liability coverage, as specified in subsection
3504 (h) of this Section.
3505

3506 4) An owner or operator may meet the requirements of this Section by
3507 obtaining a surety bond for liability coverage, as specified in subsection (i)
3508 of this Section.
3509

3510 5) An owner or operator may meet the requirements of this Section by
3511 obtaining a trust fund for liability coverage, as specified in subsection (j)
3512 of this Section.
3513

3514 6) An owner or operator may demonstrate the required liability coverage
3515 through the use of combinations of insurance, financial test, guarantee,
3516 letter of credit, surety bond, and trust fund, except that the owner or
3517 operator may not combine a financial test covering part of the liability
3518 coverage requirement with a guarantee unless the financial statement of

3519 the owner or operator is not consolidated with the financial statement of
 3520 the guarantor. The amounts of coverage demonstrated must total at least
 3521 the minimum amounts required by this Section. If the owner or operator
 3522 demonstrates the required coverage through the use of a combination of
 3523 financial assurances pursuant to this subsection (b)(6), the owner or
 3524 operator must specify at least one such assurance as "primary" coverage,
 3525 and must specify other such assurance as "excess" coverage.

- 3526
- 3527 7) An owner or operator must notify the Agency within 30 days whenever
- 3528 one of the following occurs:
- 3529
- 3530 A) A claim results in a reduction in the amount of financial assurance
- 3531 for liability coverage provided by a financial instrument authorized
- 3532 in subsections (b)(1) through (b)(6) of this Section;
- 3533
- 3534 B) A Certification of Valid Claim for bodily injury or property
- 3535 damages caused by sudden or non-sudden accidental occurrence
- 3536 arising from the operation of a hazardous waste treatment, storage,
- 3537 or disposal facility is entered between the owner or operator and
- 3538 third-party claimant for liability coverage pursuant to subsections
- 3539 (b)(1) through (b)(6) of this Section; or
- 3540
- 3541 C) A final court order establishing a judgment for bodily injury or
- 3542 property damage caused by a sudden or non-sudden accidental
- 3543 occurrence arising from the operation of a hazardous waste
- 3544 treatment, storage, or disposal facility is issued against the owner
- 3545 or operator or an instrument that is providing financial assurance
- 3546 for liability coverage pursuant to subsections (b)(1) through (b)(6)
- 3547 of this Section.
- 3548
- 3549 c) Request for adjusted level of required liability coverage. If an owner or operator
- 3550 demonstrates to the Agency that the levels of financial responsibility required by
- 3551 subsections (a) or (b) of this Section are not consistent with the degree and
- 3552 duration of risk associated with treatment, storage, or disposal at the facility or
- 3553 group of facilities, the owner or operator may obtain an adjusted level of required
- 3554 liability coverage from the Agency. The request for an adjusted level of required
- 3555 liability coverage must be submitted in writing to the Agency. If granted, the
- 3556 Agency's action must take the form of an adjusted level of required liability
- 3557 coverage, such level to be based on the Agency assessment of the degree and
- 3558 duration of risk associated with the ownership or operation of the facility or group
- 3559 of facilities. The Agency may require an owner or operator that requests an
- 3560 adjusted level of required liability coverage to provide such technical and
- 3561 engineering information as is necessary to determine a level of financial

3562 responsibility other than that required by subsection (a) or (b) of this Section. The
 3563 Agency must process any request for an adjusted level of required liability
 3564 coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code
 3565 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency
 3566 must hold a public hearing whenever it finds, on the basis of requests, a
 3567 significant degree of public interest in a tentative decision to grant an adjusted
 3568 level of required liability insurance. The Agency may also hold a public hearing
 3569 at its discretion whenever such a hearing might clarify one or more issues
 3570 involved in the tentative decision.

3571
 3572 d) Adjustments by the Agency. If the Agency determines that the levels of financial
 3573 responsibility required by subsection (a) or (b) of this Section are not consistent
 3574 with the degree and duration of risk associated with treatment, storage, or disposal
 3575 at the facility or group of facilities, the Agency must adjust the level of financial
 3576 responsibility required pursuant to subsection (a) or (b) of this Section as may be
 3577 necessary to adequately protect human health and the environment. This adjusted
 3578 level must be based on the Agency's assessment of the degree and duration of risk
 3579 associated with the ownership or operation of the facility or group of facilities. In
 3580 addition, if the Agency determines that there is a significant risk to human health
 3581 and the environment from non-sudden accidental occurrences resulting from the
 3582 operations of a facility that is not a surface impoundment, landfill or land
 3583 treatment facility, the Agency may require that an owner or operator of the facility
 3584 comply with subsection (b) of this Section. An owner or operator must furnish to
 3585 the Agency, within a time specified by the Agency in the request, which must not
 3586 be less than 30 days, any information that the Agency requests to determine
 3587 whether cause exists for such adjustments of level or type of coverage. The
 3588 Agency must process any request for an adjusted level of required liability
 3589 coverage as if it were a permit modification request pursuant to 35 Ill. Adm. Code
 3590 703.271(e)(3) and 705.128. Notwithstanding any other provision, the Agency
 3591 must hold a public hearing whenever it finds, on the basis of requests, a
 3592 significant degree of public interest in a tentative decision to grant an adjusted
 3593 level of required liability insurance. The Agency may also hold a public hearing
 3594 at its discretion whenever such a hearing might clarify one or more issues
 3595 involved in the tentative decision.

3596
 3597 e) Period of coverage. Within 60 days after receiving certifications from the owner
 3598 or operator and a qualified Professional Engineer ~~an independent registered~~
 3599 ~~professional engineer~~ that final closure has been completed in accordance with the
 3600 approved closure plan, the Agency must notify the owner or operator in writing
 3601 that the owner or operator is no longer required by this Section to maintain
 3602 liability coverage for that facility, unless the Agency determines that closure has
 3603 not been in accordance with the approved closure plan.
 3604

- 3605 f) Financial test for liability coverage.
 3606
 3607 1) An owner or operator may satisfy the requirements of this Section by
 3608 demonstrating that the owner or operator passes a financial test, as
 3609 specified in this subsection (f)(1). To pass this test the owner or operator
 3610 must meet the criteria of subsection (f)(1)(A) or (f)(1)(B) of this Section:
 3611
 3612 A) The owner or operator must have each of the following:
 3613
 3614 i) Net working capital and tangible net worth each at least six
 3615 times the amount of liability coverage to be demonstrated
 3616 by this test;
 3617
 3618 ii) Tangible net worth of at least \$10 million; and
 3619
 3620 iii) Assets in the United States amounting to either: at least 90
 3621 percent of total assets; or at least six times the amount of
 3622 liability coverage to be demonstrated by this test.
 3623
 3624 B) The owner or operator must have each of the following:
 3625
 3626 i) A current rating for the owner or operator's most recent
 3627 bond issuance of AAA, AA, A, or BBB, as issued by
 3628 Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by
 3629 Moody's;
 3630
 3631 ii) Tangible net worth of at least \$10 million;
 3632
 3633 iii) Tangible net worth at least six times the amount of liability
 3634 coverage to be demonstrated by this test; and
 3635
 3636 iv) Assets in the United States amounting to either of the
 3637 following: at least 90 percent of total assets or at least six
 3638 times the amount of liability coverage to be demonstrated
 3639 by this test.
 3640
 3641 2) The phrase "amount of liability coverage," as used in subsection (f)(1) of
 3642 this Section, refers to the annual aggregate amounts for which coverage is
 3643 required pursuant to subsections (a) and (b) of this Section.
 3644
 3645 3) To demonstrate that the owner or operator meets this test, the owner or
 3646 operator must submit each of the following three items to the Agency:
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- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it must submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter, as specified in 35 Ill. Adm. Code 724.251 is not required.
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
 - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating as follows:
 - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
 - 5) After the initial submission of items specified in subsection (f)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3) of this Section.
 - 6) If the owner or operator no longer meets the requirements of subsection (f)(1) of this Section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage, as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.
 - 7) The Agency may disallow use of this test on the basis of qualifications in

3691 the opinion expressed by the independent certified public accountant in the
 3692 accountant's report on examination of the owner's or operator's financial
 3693 statements (see subsection (f)(3)(B) of this Section). An adverse opinion
 3694 or a disclaimer of opinion is cause for disallowance. The Agency must
 3695 evaluate other qualifications on an individual basis. The owner or
 3696 operator must provide evidence of insurance for the entire amount of
 3697 required liability coverage, as specified in this Section, within 30 days
 3698 after notification of disallowance.

3699
 3700 g) Guarantee for liability coverage.

3701
 3702 1) Subject to subsection (g)(2) of this Section, an owner or operator may
 3703 meet the requirements of this Section by obtaining a written guarantee,
 3704 referred to as a "guarantee." The guarantor must be the direct or higher-
 3705 tier parent corporation of the owner or operator, a firm whose parent
 3706 corporation is also the parent corporation of the owner or operator, or a
 3707 firm with a "substantial business relationship" with the owner or operator.
 3708 The guarantor must meet the requirements for owners and operators in
 3709 subsections (f)(1) through (f)(6) of this Section. The wording of the
 3710 guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified
 3711 copy of the guarantee must accompany the items sent to the Agency as
 3712 specified in subsection (f)(3) of this Section. One of these items must be
 3713 the letter from the guarantor's chief financial officer. If the guarantor's
 3714 parent corporation is also the parent corporation of the owner or operator,
 3715 this letter must describe the value received in consideration of the
 3716 guarantee. If the guarantor is a firm with a "substantial business
 3717 relationship" with the owner or operator, this letter must describe this
 3718 "substantial business relationship" and the value received in consideration
 3719 of the guarantee. The terms of the guarantee must provide as follows:

3720
 3721 A) If the owner or operator fails to satisfy a judgment based on a
 3722 determination of liability for bodily injury or property damage to
 3723 third parties caused by sudden or nonsudden accidental
 3724 occurrences (or both as the case may be), arising from the
 3725 operation of facilities covered by this guarantee, or fails to pay an
 3726 amount agreed to in settlement of claims arising from or alleged to
 3727 arise from such injury or damage, the guarantor will do so up to the
 3728 limits of coverage.

3729
 3730 B) The guarantee remains in force unless the guarantor sends notice of
 3731 cancellation by certified mail to the owner or operator and to the
 3732 Agency. The guarantee must not be terminated unless and until the
 3733 Agency approves alternate liability coverage complying with

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Section 725.247 or 35 Ill. Adm. Code 724.247.

- 2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:
 - A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
 - B) The guarantee is governed by Illinois law; and
 - C) The name and address of the guarantor's registered agent for service of process.

- 3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].

- h) Letter of credit for liability coverage.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.
 - 2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
 - 3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
 - 4) An owner or operator that uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust will be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or that complies with the Corporate Fiduciary Act [205 ILCS 620].

- 3777 5) The wording of the standby trust fund must be identical to the wording
 3778 specified in 35 Ill. Adm. Code 724.251(n).
 3779
- 3780 i) Surety bond for liability coverage.
 3781
- 3782 1) An owner or operator may satisfy the requirements of this Section by
 3783 obtaining a surety bond that conforms to the requirements of this
 3784 subsection (i) and submitting a copy of the bond to the Agency.
 3785
- 3786 2) The surety company issuing the bond must be licensed by the Illinois
 3787 Department of Financial and Professional Regulation, Division of
 3788 Insurance.
 3789
- 3790 3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code
 3791 724.251.
 3792
- 3793 j) Trust fund for liability coverage.
 3794
- 3795 1) An owner or operator may satisfy the requirements of this Section by
 3796 establishing a trust fund that conforms to the requirements of this
 3797 subsection and submitting a signed, duplicate original of the trust
 3798 agreement to the Agency.
 3799
- 3800 2) The trustee must be an entity that has the authority to act as a trustee and
 3801 whose trust operations are regulated and examined by the Illinois
 3802 Commissioner of Banks and Trust Companies, or that complies with the
 3803 Corporate Fiduciary Act [205 ILCS 620].
 3804
- 3805 3) The trust fund for liability coverage must be funded for the full amount of
 3806 the liability coverage to be provided by the trust fund before it may be
 3807 relied upon to satisfy the requirements of this Section. If at any time after
 3808 the trust fund is created the amount of funds in the trust fund is reduced
 3809 below the full amount of liability coverage to be provided, the owner or
 3810 operator, by the anniversary of the date of establishment of the fund, must
 3811 either add sufficient funds to the trust fund to cause its value to equal the
 3812 full amount of liability coverage to be provided, or obtain other financial
 3813 assurance, as specified in this Section, to cover the difference. For
 3814 purposes of this subsection, "the full amount of the liability coverage to be
 3815 provided" means the amount of coverage for sudden and nonsudden
 3816 accidental occurrences required to be provided by the owner or operator
 3817 by this Section, less the amount of financial assurance for liability
 3818 coverage that is being provided by other financial assurance mechanisms
 3819 being used to demonstrate financial assurance by the owner or operator.

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- 4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code 724.251.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 725.274 Inspections

At least weekly the owner or operator must inspect areas where containers are stored at least weekly, looking except for the owner or operator of a Performance Track member facility, which must conduct inspections at least once each month after approval by the Agency. To apply for reduced inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5). The owner or operator must look for leaking containers and for deterioration of containers leaks and for deterioration caused by corrosion or other factors.

BOARD NOTE: See Section 725.271 for remedial action required if deterioration or leaks are detected.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART J: TANK SYSTEMS

Section 725.291 Assessment of Existing Tank System Integrity

- a) For each existing tank system that does not have secondary containment meeting the requirements of Section 725.293, the owner or operator must determine either that the tank system is not leaking or that it is unfit for use. Except as provided in subsection (c), the owner or operator must, after January 12, 1988, obtain and keep on file at the facility a written assessment reviewed and certified by ~~an independent, qualified Professional Engineer, registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that attests to the tank system's integrity.
- b) This assessment must determine whether the tank system is adequately designed and has sufficient structural strength and compatibility with the wastes to be stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:
 - 1) Design standards, if available, according to which the tank and ancillary equipment were constructed;

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- 2) Hazardous characteristics of the wastes that have been or will be handled;
- 3) Existing corrosion protection measures;
- 4) Documented age of the tank system, if available, (otherwise, an estimate of the age); and
- 5) Results of a leak test, internal inspection, or other tank integrity examination, such that the following conditions are met:
 - A) For non-enterable underground tanks, this assessment must consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pocket, and high water table effects.
 - B) For other than non-enterable underground tanks and for ancillary equipment, this assessment must be either a leak test, as described above, or an internal inspection or other tank integrity examination certified by ~~an independent~~, qualified Professional Engineer, ~~registered professional engineer~~ in accordance with 35 Ill. Adm. Code 702.126(d), that addresses cracks, leaks, corrosion, and erosion.

BOARD NOTE: The practices described in the American Petroleum Institute (API) Publication, "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as guidelines in conducting the integrity examination of an other than non-enterable underground tank system.

- c) Tank systems that store or treat materials that become hazardous wastes subsequent to July 14, 1986 must conduct this assessment within 12 months after the date that the waste becomes a hazardous waste.
- d) If, as a result of the assessment conducted in accordance with subsection (a) of this Section, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Sections 725.296.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 725.292 Design and Installation of New Tank Systems or Components

- 3906 a) An owner or operator of a new tank system or component must ensure that the
 3907 foundation, structural support, seams, connections, and pressure controls (if
 3908 applicable) are adequately designed and that the tank system has sufficient
 3909 structural strength, compatibility with the wastes to be stored or treated, and
 3910 corrosion protection so that it will not collapse, rupture, or fail. The owner or
 3911 operator must obtain a written assessment reviewed and certified by ~~an~~
 3912 ~~independent, qualified Professional Engineer, registered professional engineer~~ in
 3913 accordance with 35 Ill. Adm. Code 702.126(d), attesting that the system has
 3914 sufficient structural integrity and is acceptable for the storing and treating of
 3915 hazardous waste. This assessment must include, ~~at a minimum,~~ the following
 3916 information:
- 3917
- 3918 1) Design standards according to which the tanks and ancillary equipment is
 3919 or will be constructed.
- 3920
- 3921 2) Hazardous characteristics of the wastes to be handled.
- 3922
- 3923 3) For new tank systems or components in which the external shell of a metal
 3924 tank or any external metal component of the tank system is or will be in
 3925 contact with the soil or with water, a determination by a corrosion expert
 3926 of the following:
- 3927
- 3928 A) Factors affecting the potential for corrosion, including but not
 3929 limited to the following:
- 3930
- 3931 i) Soil moisture content;
- 3932
- 3933 ii) Soil pH;
- 3934
- 3935 iii) Soil sulfides level;
- 3936
- 3937 iv) Soil resistivity;
- 3938
- 3939 v) Structure to soil potential;
- 3940
- 3941 vi) Influence of nearby underground metal structures (e.g.,
 3942 piping);
- 3943
- 3944 vii) Stray electric current;
- 3945
- 3946 viii) Existing corrosion-protection measures (e.g., coating,
 3947 cathodic protection, etc.); and
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- 3949 B) The type and degree of external corrosion protection that are
 3950 needed to ensure the integrity of the tank system during the use of
 3951 the tank system or component, consisting of one or more of the
 3952 following:
 3953
 3954 i) Corrosion-resistant materials of construction such as
 3955 special alloys, or fiberglass-reinforced plastic;
 3956
 3957 ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.)
 3958 with cathodic protection (e.g., impressed current or
 3959 sacrificial anodes); and
 3960
 3961 iii) Electrical isolation devices such as insulating joints and
 3962 flanges, etc.
 3963

3964 BOARD NOTE: The practices described in the National
 3965 Association of Corrosion Engineers (NACE) Standard, "Control of
 3966 External Corrosion on Metallic Buried, Partially Buried, or
 3967 Submerged Liquid Storage Systems," NACE Recommended
 3968 Practice RP0285, and "Cathodic Protection of Underground
 3969 Petroleum Storage Tanks and Piping Systems," API
 3970 Recommended Practice 1632, each incorporated by reference in
 3971 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as
 3972 guidelines in providing corrosion protection for tank systems.
 3973

- 3974 4) For underground tank system components that are likely to be affected by
 3975 vehicular traffic, a determination of design or operational measures that
 3976 will protect the tank system against potential damage; and
 3977

- 3978 5) Design considerations to ensure the following:
 3979

- 3980 A) Tank foundations will maintain the load of a full tank;
 3981
 3982 B) Tank systems will be anchored to prevent flotation or
 3983 dislodgement where the tank system is placed in a saturated zone,
 3984 or is located within a seismic fault zone; and
 3985
 3986 C) Tank systems will withstand the effects of frost heave.
 3987

- 3988 b) The owner and operator of a new tank system must ensure that proper handling
 3989 procedures are adhered to in order to prevent damage to the system during
 3990 installation. Prior to covering, enclosing or placing a new tank system or
 3991 component in use, an independent, qualified installation inspector or ~~an~~

3992 independent, qualified Professional Engineer, ~~registered professional engineer~~,
3993 either of whom is trained and experienced in the proper installation of tank
3994 systems or components, must inspect the system or component for the presence of
3995 any of the following items:
3996

- 3997 1) Weld breaks;
- 3998
- 3999 2) Punctures;
- 4000
- 4001 3) Scrapes of protective coatings;
- 4002
- 4003 4) Cracks;
- 4004
- 4005 5) Corrosion; and
- 4006
- 4007 6) Other structural damage or inadequate construction or installation. All
4008 discrepancies must be remedied before the tank system is covered,
4009 enclosed, or placed in use.
- 4010

4011 c) New tank systems or components and piping that are placed underground and
4012 which are backfilled must be provided with a backfill material that is a
4013 noncorrosive, porous, and homogeneous substance which is carefully installed so
4014 that the backfill is placed completely around the tank and compacted to ensure
4015 that the tank and piping are fully and uniformly supported.
4016

4017 d) All new tanks and ancillary equipment must be tested for tightness prior to being
4018 covered, enclosed or placed in use. If a tank system is found not to be tight, all
4019 repairs necessary to remedy the leaks in the system must be performed prior to the
4020 tank system being covered, enclosed, or placed in use.
4021

4022 e) Ancillary equipment must be supported and protected against physical damage
4023 and excessive stress due to settlement, vibration, expansion, or contraction.
4024

4025 BOARD NOTE: The piping system installation procedures described in
4026 "Installation of Underground Petroleum Storage Systems," API Recommended
4027 Practice 1615, or "Chemical Plant and Petroleum Refinery Piping," ASME/ANSI
4028 Standard B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, each
4029 incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used where
4030 applicable, as guidelines for proper installation of piping systems.
4031

4032 f) The owner and operator must provide the type and degree of corrosion protection
4033 necessary, based on the information provided under subsection (a)(3) of this
4034 Section, to ensure the integrity of the tank system during use of the tanks system.

4035 An independent corrosion expert must supervise the installation of a corrosion
 4036 protection system that is field fabricated to ensure proper installation.

4037
 4038 g) The owner and operator must obtain and keep on file at the facility written
 4039 statements by those persons required to certify the design of the tank system and
 4040 supervise the installation of the tank system in accordance with the requirements
 4041 of subsections (b) through (f) of this Section to attest that the tank system was
 4042 properly designed and installed and that repairs, pursuant to subsections (b) and
 4043 (d) of this Section were performed. These written statements must also include
 4044 the certification statement, as required in 35 Ill. Adm. Code 702.126(d).

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 4046 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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4048 **Section 725.293 Containment and Detection of Releases**

4049

4050 a) In order to prevent the release of hazardous waste or hazardous constituents to the
 4051 environment, secondary containment that meets the requirements of this Section
 4052 must be provided (except as provided in subsections (f) and (g) of this Section).

4053

4054 1) For a new or existing tank system or component, prior to its being put into
 4055 service;

4056

4057 2) ~~For all existing tanks used to store or treat USEPA Hazardous Waste~~
 4058 ~~Numbers F020, F021, F022, F023, F026, and F027, as defined in 35 Ill.~~
 4059 ~~Adm. Code 721.131, within two years after January 12, 1987;~~

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4061 3) ~~For those existing tank systems of known and documentable age, within~~
 4062 ~~two years after January 12, 1987, or when the tank systems have reached~~
 4063 ~~15 years of age, whichever come later;~~

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4065 4) ~~For those existing tank systems for which the age cannot be documented,~~
 4066 ~~within eight years of January 12, 1987; but if the age of the facility is~~
 4067 ~~greater than seven years, secondary containment must be provided by the~~
 4068 ~~time the facility reaches 15 years of age or within two years of January 12,~~
 4069 ~~1987, whichever comes later; and~~

4070

4071 25) For a tank systemsystems that storesstore or treatsreat materials that
 4072 become hazardous wastes subsequent to January 12, 1987, within two
 4073 years after the hazardous waste listing, or when the tank system has
 4074 reached 15 years of age, whichever comes laterthe time intervals required
 4075 in subsections (a)(1) through (a)(4) of this Section, except that the date
 4076 that a material becomes a hazardous waste must be used in place of
 4077 January 12, 1987.

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- b) Secondary containment systems must be as follows:
 - 1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and
 - 2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.
- c) To meet the requirements of subsection (b) of this Section, secondary containment systems must be at a minimum as follows:
 - 1) Constructed of or lined with materials that are compatible with the wastes to be placed in the tank system and of sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);
 - 2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift;
 - 3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing detection technology or site conditions will not allow detection of a release within 24 hours;
 - 4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within 24 hours, or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that removal of the released waste or accumulated precipitation cannot be accomplished within 24 hours.

BOARD NOTE: If the collected material is a hazardous waste under 35 Ill. Adm. Code 721, it is subject to management as a hazardous waste in

4121 accordance with all applicable requirements of 35 Ill. Adm. Code 722
 4122 through 728. If the collected material is discharged through a point source
 4123 to waters of the State, it is subject to the NPDES permit requirement of
 4124 Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code
 4125 309. If discharged to a Publicly Owned Treatment Works (POTW), it is
 4126 subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the
 4127 collected material is released to the environment, it may be subject to the
 4128 reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR
 4129 302.6.

4130
 4131 d) Secondary containment for tanks must include one or more of the following
 4132 devices:

- 4133 1) A liner (external to the tank);
- 4134 2) A vault;
- 4135 3) A double-walled tank; or
- 4136 4) An equivalent device as approved by the Board in an adjusted standards
 4137 proceeding.

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 4140 e) In addition to the requirements of subsections (b), (c), and (d), secondary
 4141 containment systems must satisfy the following requirements:

- 4142 1) External liner systems must be as follows:
 - 4143 A) Designed or operated to contain 100 percent of the capacity of the
 4144 largest tank within the liner system's boundary;
 - 4145 B) Designed or operated to prevent run-on or infiltration of
 4146 precipitation into the secondary containment system, unless the
 4147 collection system has sufficient excess capacity to contain run-on
 4148 or infiltration. Such additional capacity must be sufficient to
 4149 contain precipitation from a 25-year, 24-hour rainfall event;
 - 4150 C) Free of cracks or gaps; and
 - 4151 D) Designed and installed to completely surround the tank and to
 4152 cover all surrounding earth likely to come into contact with the
 4153 waste if released from the tanks (i.e., capable of preventing lateral
 4154 as well as vertical migration of the waste).

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- 2) Vault systems must be as follows:
 - A) Designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
 - B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
 - C) Constructed with chemical-resistant water stops in place at all joints (if any);
 - D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
 - E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:
 - i) Meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or
 - ii) Meets the definition of reactive waste under 35 Ill. Adm. Code 721.123 and may form an ignitable or explosive vapor; and
 - F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.
- 3) Double-walled tanks must be as follows:
 - A) Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;
 - B) Protected, if constructed of metal, from both corrosion of the primary tank interior and the external surface of the outer shell; and

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C) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours or as otherwise provided in the RCRA permit if the operator has demonstrated to the Agency, by way of permit application, that the existing leak detection technology or site conditions will not allow detection of a release within 24 hours.

BOARD NOTE: The provisions outlined in the Steel Tank Institute (STI) document "Standard for Dual Wall Underground Steel Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used as guidelines for aspects of the design of underground steel double-walled tanks.

- f) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (c) and (h) of this Section, except for the following:
 - 1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;
 - 2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;
 - 3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and
 - 4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices, etc.) that are visually inspected for leaks on a daily basis.

- g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1], and in accordance with Subpart D of 35 Ill. Adm. Code 104, an adjusted standard will be granted by the Board regarding alternative design and operating practices only if the Board finds either that the alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system, or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not receive an adjusted standard from the secondary containment requirements of this Section through a justification in accordance with subsection (g)(2) of this Section.

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- 1) When determining whether to grant alternative design and operating practices based on a demonstration of equivalent protection of groundwater and surface water, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:
 - A) The nature and quantity of the waste;
 - B) The proposed alternate design and operation;
 - C) The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and
 - D) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

- 2) In deciding whether to grant alternative design and operating practices based on a demonstration of no substantial present or potential hazard, the Board will consider whether the petitioner has justified an adjusted standard based on the following factors:
 - A) The potential adverse effects on groundwater, surface water, and land quality taking the following into account:
 - i) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;
 - ii) The hydrogeological characteristics of the facility and surrounding land;
 - iii) The potential for health risks caused by human exposure to waste constituents;
 - iv) The potential for damage to wildlife; crops, vegetation, and physical structures caused by exposure to waste constituents; and
 - v) The persistence and permanence of the potential adverse effects;

 - B) The potential adverse effects of a release on groundwater quality, taking the following into account:

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- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The proximity and withdrawal rates of water in the area;
 - iii) The current and future uses of groundwater in the area; and
 - iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;
- C) The potential adverse effects of a release on surface water quality, taking the following into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The patterns of rainfall in the region;
 - iii) The proximity of the tank system to surface waters;
 - iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and
 - v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and
- D) The potential adverse effects of a release on the land surrounding the tank system, taking the following into account:
- i) The patterns of rainfall in the region; and
 - ii) The current and future uses of the surrounding land.
- 3) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1), at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the alternative design and operating practices), must fulfill the following requirements:

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- A) It must comply with the requirements of Section 725.296, except Section 725.296(d); and
 - B) It must decontaminate or remove contaminated soil to the extent necessary to assure the following:
 - i) It must enable the tank system, for which alternative design and operating practices were granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and
 - ii) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water.
 - C) If contaminated soil cannot be removed or decontaminated in accordance with subsection (g)(3)(B), it must comply with the requirements of Section 725.297(b).
- 4) The owner or operator of a tank system, for which alternative design and operating practices had been granted in accordance with the requirements of subsection (g)(1) of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the alternative design and operating practices, must fulfill the following requirements:
- A) It must comply with the requirements of Section 725.296(a), (b), (c), and (d); and
 - B) It must prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 725.297(b);
 - C) If repairing, replacing, or reinstalling the tank system, it must provide secondary containment in accordance with the requirements of subsections (a) through (f) of this Section, or make the alternative design and operating practices demonstration to the Board again with respect to secondary containment and meet the requirements for new tank systems in Section 725.292 if the tank

4379 system is replaced. The owner or operator must comply with these
 4380 requirements even if contaminated soil is decontaminated or
 4381 removed, and groundwater or surface water has not been
 4382 contaminated.
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4384 h) In order to make an alternative design and operating practices demonstration, the
 4385 owner or operator must follow the following procedures, in addition to those
 4386 specified in Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill.
 4387 Adm. Code 104:
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4389 1) The owner or operator must file a petition for approval of alternative
 4390 design and operating practices according to the following schedule:
 4391

4392 A) For existing tank systems, at least 24 months prior to the date that
 4393 secondary containment must be provided in accordance with
 4394 subsection (a) of this Section; and
 4395

4396 B) For new tank systems, at least 30 days prior to entering into a
 4397 contract for installation of the tank system.
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4399 2) As part of the petition, the owner or operator must also submit the
 4400 following to the Board:
 4401

4402 A) A description of the steps necessary to conduct the demonstration
 4403 and a timetable for completing each of the steps. The
 4404 demonstration must address each of the factors listed in subsection
 4405 (g)(1) or (g)(2) of this Section; and
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4407 B) The portion of the Part B permit application specified in 35 Ill.
 4408 Adm. Code 703.202.
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4410 3) The owner or operator must complete its showing within 180 days after
 4411 filing its petition for approval of alternative design and operating
 4412 practices.
 4413

4414 4) The Agency must issue or modify the RCRA permit so as to require the
 4415 permittee to construct and operate the tank system in the manner that was
 4416 provided in any Board order approving alternative design and operating
 4417 practices.
 4418

4419 i) All tank systems, until such time as secondary containment meeting the
 4420 requirements of this Section is provided, must comply with the following:
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- 4422 1) For non-enterable underground tanks, a leak test that meets the
4423 requirements of Section 725.291(b)(5) must be conducted at least
4424 annually.
4425
- 4426 2) For other than non-enterable underground tanks and for all ancillary
4427 equipment, the owner or operator must either conduct an annual leak test,
4428 as described in subsection (i)(1) of this Section, or an internal inspection
4429 or other tank integrity examination, by ~~an independent,~~ qualified
4430 Professional Engineer, registered professional engineer, that addresses
4431 cracks, leaks, and corrosion and erosion must be conducted at least
4432 annually. The owner or operator must remove the stored waste from the
4433 tank, if necessary, to allow the condition of all internal tank surfaces to be
4434 assessed.
4435
- 4436 BOARD NOTE: The practices described in API Publication "Guide for
4437 Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low
4438 Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code
4439 720.111(a), may be used, when applicable, as guidelines for assessing the
4440 overall condition of the tank system.
4441
- 4442 3) The owner or operator must maintain on file at the facility a record of the
4443 results of the assessments conducted in accordance with subsections (i)(1)
4444 through (i)(3) of this Section.
4445
- 4446 4) If a tank system or component is found to be leaking or unfit for use as a
4447 result of the leak test or assessment in subsections (i)(1) through (i)(3) of
4448 this Section, the owner or operator must comply with the requirements of
4449 Section 725.296.
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4451 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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4453 **Section 725.295 Inspections**
4454

- 4455 a) The owner or operator must inspect the following, where present, at least once
4456 each operating day, data gathered from monitoring and leak detection equipment
4457 (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the
4458 tank system is being operated according to its design.:
4459
- 4460 b) Except as noted under subsection (c) of this Section, the owner or operator must
4461 inspect the following at least once each operating day:
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- 4463 1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass
4464 systems, and drainage systems) to ensure that it is in good working order;

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- 2) ~~Above ground portions~~The aboveground portion of the tank system, if any, to detect corrosion or releases of waste; and
- 3) ~~Data gathered from monitoring equipment (e.g., pressure and temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design; and~~
- 34) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.);

BOARD NOTE: Section 725.115(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 725.296 requires the owner or operator to notify the Agency within 24 hours of confirming a release. Also, federal 40 CFR 302 may require the owner or operator to notify the National Response Center of a release.

- c) The owner or operator of a tank system that either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly those areas described in subsections (b)(1) through (b)(3) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.
- d) The owner or operator of a Performance Track member facility may inspect on a less frequent basis, after approval by the Agency, but it must inspect at least once each month. To apply for a less than weekly inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5).
- e) Ancillary equipment that is not provided with secondary containment, as described in Section 725.293(f)(1) through (f)(4), must be inspected at least once each operating day.
- f) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:
 - 1) The proper operation of the cathodic protection system must be confirmed

4508 within six months after initial installation, and annually thereafter; and

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4510 2) All sources of impressed current must be inspected or tested, as
4511 appropriate, at least every other month.

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4513 BOARD NOTE: The practices described in "Control of External Corrosion on
4514 Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE
4515 Recommended Practice RP0285-85, or "Cathodic Protection of Underground
4516 Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632,
4517 each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used,
4518 where applicable, as guidelines in maintaining and inspecting cathodic protection
4519 systems.

4520

4521 ge) The owner or operator must document in the operating record of the facility an
4522 inspection of those items in subsections (a) and (b) of this Section.

4523

4524 (Source: Amended at 32 Ill. Reg. _____, effective _____)

4525

4526 **Section 725.296 Response to Leaks or Spills and Disposition of Tank Systems**

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4528 A tank system or secondary containment system from which there has been a leak or spill, or
4529 which is unfit for use, must be removed from service immediately. The owner or operator must
4530 satisfy the following requirements:

4531

4532 a) Cease using; prevent flow or addition of wastes. The owner or operator must
4533 immediately stop the flow of hazardous waste into the tank system or secondary
4534 containment system and inspect the system to determine the cause of the release.

4535

4536 b) Removal of waste from tank system or secondary containment system.

4537

4538 1) If the release was from the tank system, the owner or operator must,
4539 within 24 hours after detection of the leak, remove as much of the waste as
4540 is necessary to prevent further release of hazardous waste to the
4541 environment and to allow inspection and repair of the tank system to be
4542 performed.

4543

4544 2) If the release was to a secondary containment system, all released
4545 materials must be removed within 24 hours to prevent harm to human
4546 health and the environment.

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4548 c) Containment of visible releases to the environment. The owner or operator must
4549 immediately conduct a visual inspection of the release and, based upon that
4550 inspection, do the following:

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- 1) Prevent further migration of the leak or spill to soils or surface water; and
 - 2) Remove and properly dispose of any visible contamination of the soil or surface water.
- d) Notifications; reports.
- 1) Any release to the environment, except as provided in subsection (d)(2) of this Section, must be reported to the Agency within 24 hours after detection.
 - 2) A leak or spill of hazardous waste is exempted from the requirements of this subsection (d) if the following occur:
 - A) The spill is less than or equal to a quantity of one pound; and
 - B) The spill is immediately contained and cleaned-up.
 - 3) Within 30 days after detection of a release to the environment, a report containing the following information must be submitted to the Agency:
 - A) Likely route of migration of the release;
 - B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate, etc.);
 - C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Agency as soon as they become available;
 - D) Proximity to downgradient drinking water, surface water, and population areas; and
 - E) Description of response actions taken or planned.
- e) Provision of secondary containment, repair, or closure.
- 1) Unless the owner or operator satisfies the requirements of subsections (e)(2) through (e)(4) of this Section, the tank system must be closed in accordance with Section 725.297.

- 4594 2) If the cause of the release was a spill that has not damaged the integrity of
4595 the system, the owner or operator may return the system to service as soon
4596 as the released waste is removed and repairs, if necessary, are made.
4597
- 4598 3) If the cause of the release was a leak from the primary tank system into the
4599 secondary containment system, the system must be repaired prior to
4600 returning the tank system to service.
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- 4602 4) If the source of the release was a leak to the environment from a
4603 component of a tank system without secondary containment, the owner or
4604 operator must provide the component of the system from which the leak
4605 occurred with secondary containment that satisfies the requirements of
4606 Section 725.293 before it is returned to service, unless the source of the
4607 leak is an aboveground portion of a tank system. If the source is an
4608 aboveground component that can be inspected visually, the component
4609 must be repaired and may be returned to service without secondary
4610 containment as long as the requirements of subsection (f) of this Section
4611 are satisfied. If a component is replaced to comply with the requirements
4612 of this subsection (e)(4), that component must satisfy the requirements for
4613 new tank systems or components in Sections 725.292 and 725.293.
4614 Additionally, if a leak has occurred in any portion of a tank system
4615 component that is not readily accessible for visual inspection (e.g., the
4616 bottom of an inground or onground tank), the entire component must be
4617 provided with secondary containment in accordance with Section 725.293
4618 prior to being returned to use.
4619
- 4620 f) Certification of major repairs. If the owner or operator has repaired a tank system
4621 in accordance with subsection (e) of this Section, and the repair has been
4622 extensive (e.g., installation of an internal liner, repair of a ruptured primary
4623 containment or secondary containment vessel, etc.), the tank system must not be
4624 returned to service unless the owner or operator has obtained a certification by
4625 ~~an independent~~ qualified Professional Engineer, registered professional engineer
4626 in accordance with 35 Ill. Adm. Code 702.126(d) that the repaired system is
4627 capable of handling hazardous wastes without release for the intended life of the
4628 system. This certification must be placed in the operating record and maintained
4629 until closure of the facility~~submitted to the Agency within seven days after~~
4630 ~~returning the tank system to use.~~
4631

4632 BOARD NOTE: See Section 725.115(c) for the requirements necessary to remedy a failure.
4633 Also, federal 40 CFR 302.6 requires the owner or operator to notify the National Response
4634 Center of a release of any "reportable quantity."
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4636 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month

- a) The requirements of this Section apply to small quantity generators that generate more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and that do not accumulate over 6,000 kg on-site at any time.
- b) A generator of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:
 - 1) Treatment or storage of hazardous waste in tanks must comply with Section 725.117(b);
 - 2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;
 - 3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and
 - 4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

BOARD NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

- c) Except as noted in subsection (d) of this Section, a generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect the following, where present:
 - 1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;
 - 2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being

4680 operated according to its design;

4681

4682 3) The level of waste in the tank at least once each operating day to ensure
4683 compliance with subsection (b)(3) of this Section;

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4685 4) The construction materials of the tank at least weekly to detect corrosion
4686 or leaking of fixtures or seams; and

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4688 5) The construction materials of and the area immediately surrounding
4689 discharge confinement structures (e.g., dikes) at least weekly to detect
4690 erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

4691

4692 BOARD NOTE: As required by Section 725.115(c), the owner or operator must
4693 remedy any deterioration or malfunction the owner or operator finds.

4694

4695 d) A generator that accumulates between 100 and 1,000 kg/mo of hazardous waste in
4696 tanks or tank systems which have full secondary containment and which either
4697 uses leak detection equipment to alert facility personnel to leaks or implements
4698 established workplace practices to ensure leaks are promptly identified must
4699 inspect at least weekly, where applicable, the areas identified in subsections (c)(1)
4700 through (c)(5) of this Section. Use of the alternate inspection schedule must be
4701 documented in the facility's operating record. This documentation must include a
4702 description of the established workplace practices at the facility.

4703

4704 e) The owner or operator of a Performance Track member facility may inspect on a
4705 less frequent basis after approval by the Agency, but it must inspect at least once
4706 each month. To apply for a less than weekly inspection frequency, the owner or
4707 operator of the Performance Track member facility must follow the procedures
4708 described in Section 725.115(b)(5).

4709

4710 fd) A generator of between 100 and 1,000 kg/mo accumulating hazardous waste in
4711 tanks must, upon closure of the facility, remove all hazardous waste from tanks,
4712 discharge control equipment, and discharge confinement structures.

4713

4714 BOARD NOTE: At closure, as throughout the operating period, unless the owner
4715 or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(d) or (e),
4716 that any solid waste removed from the tank is not a hazardous waste, the owner or
4717 operator becomes a generator of hazardous waste and must manage it in
4718 accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and
4719 725.

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4721 ge) A generator of between 100 and 1,000 kg/mo must comply with the following
4722 special requirements for ignitable or reactive waste:

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- 1) Ignitable or reactive waste must not be placed in a tank unless one of the following conditions are fulfilled:
 - A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the following is true of the waste:
 - i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123, and
 - ii) Section 725.117(b) is complied with;
 - B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
 - C) The tank is used solely for emergencies.
- 2) The owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
- hf) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:
 - 1) Incompatible wastes or incompatible wastes and materials (see appendix V of 40 CFR 265 (Examples of Potentially Incompatible Waste), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) must not be placed in the same tank unless Section 725.117(b) is complied with.
 - 2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material unless Section 725.117(b) is complied with.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART K: SURFACE IMPOUNDMENTS

Section 725.321 Design and Operating Requirements

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- a) The owner or operator of each new surface impoundment unit ~~on which construction commences after January 29, 1992~~, each lateral expansion of a surface impoundment unit ~~on which construction commences after July 29, 1992~~, and each replacement of an existing surface impoundment unit ~~that is to commence reuse after July 29, 1992~~, must install two or more liners and a leachate collection and removal system between such liners, and operate the leachate collection and removal system, in accordance with 35 Ill. Adm. Code 724.321(c), unless exempted under 35 Ill. Adm. Code 724.321(d), (e), or (f). ~~"Construction commences" is as defined in 35 Ill. Adm. Code 720.110 under "existing facility."~~

- b) The owner or operator of each unit referred to in subsection (a) of this Section must notify the Agency at least sixty days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six months of the receipt of such notice.

- c) The owner or operator of any replacement surface impoundment unit is exempt from subsection (a) of this Section if the following conditions are fulfilled:
 - 1) The existing unit was constructed in compliance with the design standards of 35 Ill. Adm. Code 724.321(c), (d), and (e); and

BOARD NOTE: The cited subsections implemented the design standards of sections 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6924(o)(1)(A)(i) and (o)(5)).
 - 2) There is no reason to believe that the liner is not functioning as designed.

- d) The Agency must not require a double liner as set forth in subsection (a) of this Section for any monofill, if the following conditions are fulfilled:
 - 1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents that render the wastes hazardous for reasons other than the toxicity characteristic in 35 Ill. Adm. Code 721.124, with USEPA hazardous waste numbers D004 through D017; and
 - 2) No migration demonstration.
 - A) Design and location requirements.
 - i) The monofill has at least one liner for which there is no

- 4809 evidence that such liner is leaking. For the purposes of this
 4810 subsection (d)(2)(A)(i) the term "liner" means a liner
 4811 designed, constructed, installed, and operated to prevent
 4812 hazardous waste from passing into the liner at any time
 4813 during the active life of the facility, or a liner designed,
 4814 constructed, installed, and operated to prevent hazardous
 4815 waste from migrating beyond the liner to adjacent
 4816 subsurface soil, groundwater, or surface water at any time
 4817 during the active life of the facility. In the case of any
 4818 surface impoundment that has been exempted from the
 4819 requirements of subsection (a) of this Section, of a liner
 4820 designed, constructed, installed, and operated to prevent
 4821 hazardous waste from passing beyond the liner, at the
 4822 closure of such impoundment the owner or operator must
 4823 remove or decontaminate all waste residues, all
 4824 contaminated liner material and contaminated soil to the
 4825 extent practicable. If all contaminated soil is not removed
 4826 or decontaminated, the owner or operator of such
 4827 impoundment must comply with appropriate post-closure
 4828 requirements, including but not limited to groundwater
 4829 monitoring and corrective action;
- 4830
- 4831 ii) The monofill is located more than one-quarter mile from an
 4832 underground source of drinking water (as that term is
 4833 defined in 35 Ill. Adm. Code 702.110); and
- 4834
- 4835 iii) The monofill is in compliance with generally applicable
 4836 groundwater monitoring requirements for facilities with
 4837 RCRA permits; or
- 4838
- 4839 B) The owner or operator demonstrates to the Board that the monofill
 4840 is located, designed, and operated so as to assure that there will be
 4841 no migration of any hazardous constituent into groundwater or
 4842 surface water at any future time.
- 4843
- 4844 e) In the case of any unit in which the liner and leachate collection system have been
 4845 installed pursuant to the requirements of subsection (a) of this Section, and in
 4846 good faith compliance with subsection (a) and with guidance documents
 4847 governing liners and leachate collection systems under subsection (a) of this
 4848 Section, the Agency must not require a liner or leachate collection system that is
 4849 different from that which was so installed pursuant to subsection (a) of this
 4850 Section when issuing the first permit to such facility, except that the Agency is
 4851 not precluded from requiring installation of a new liner when the Agency finds

4852 that any liner installed pursuant to the requirements of subsection (a) of this
 4853 Section is leaking.

4854
 4855 f) A surface impoundment must maintain enough freeboard to prevent any
 4856 overtopping of the dike by overfilling, wave action, or a storm. Except as
 4857 provided in subsection (g) of this Section, there must be at least 60 centimeters
 4858 (two feet) of freeboard.

4859
 4860 g) A freeboard level less than 60 centimeters (two feet) may be maintained if the
 4861 owner or operator obtains certification by a qualified engineer that alternate
 4862 design features or operating plans will, to the best of the engineer's knowledge
 4863 and opinion, prevent overtopping of the dike. The certification, along with a
 4864 written identification of alternate design features or operating plans preventing
 4865 overtopping, must be maintained at the facility.

4866
 4867 BOARD NOTE: Any point source discharge from a surface impoundment to
 4868 waters of the State is subject to the requirements of Section 12 of the
 4869 Environmental Protection Act [415 ILCS 5/12]. Spills may be subject to Section
 4870 311 of the Clean Water Act (33 USC 1321).

4871
 4872 h) Surface impoundments that are newly subject to this Part due to the promulgation
 4873 of additional listings or characteristics for the identification of hazardous waste
 4874 must be in compliance with subsections (a), (c), or (d) of this Section not later
 4875 than 48 months after the promulgation of the additional listing or characteristic.
 4876 This compliance period must not be cut short as the result of the promulgation of
 4877 land disposal prohibitions under 35 Ill. Adm. Code 728 or the granting of an
 4878 extension to the effective date of a prohibition pursuant to 35 Ill. Adm. Code
 4879 728.105, within this 48 month period.

4880
 4881 i) Refusal to grant an exemption or waiver, or grant with conditions, may be
 4882 appealed to the Board.

4883
 4884 (Source: Amended at 32 Ill. Reg. _____, effective _____)

4885
 4886 **Section ~~725.323~~725.324 Containment System**

4887
 4888 An earthen dike must have a protective cover, such as grass, shale, or rock to minimize wind and
 4889 water erosion and to preserve its structural integrity.

4890
 4891 ~~BOARD NOTE: Two versions of 40 CFR 265.223 exist in the federal regulations. USEPA~~
 4892 ~~added the second at 57 Fed. Reg. 3486, January 29, 1992. Section 725.324 is derived from the~~
 4893 ~~original version of 40 CFR 265.223.~~
 4894

4895 (Source: Renumbered from Section 725.324 and amended at 32 Ill. Reg. _____,
 4896 effective _____)
 4897

4898 **Section ~~725.324~~725.323 Response Actions**
 4899

- 4900 a) The owner or operator of surface impoundment units subject to Section
 4901 725.321(a) must ~~develop and keep on site~~submit a response action plan to the
 4902 Agency when submitting the proposed action leakage rate under Section ~~725.322~~.
 4903 The response action plan must set forth the actions to be taken if the action
 4904 leakage rate has been exceeded. At a minimum, the response action plan must
 4905 describe the actions specified in subsection (b) of this Section.
 4906
- 4907 b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the
 4908 owner or operator must do the following:
 4909
- 4910 1) Notify the Agency in writing of the ~~exceedance~~exceedence within seven
 4911 days after the determination;
 4912
 - 4913 2) Submit a preliminary written assessment to the Agency within 14 days of
 4914 the determination, as to the amount of liquids; likely sources of liquids;
 4915 possible location, size, and cause of any leaks; and short-term actions
 4916 taken and planned;
 4917
 - 4918 3) Determine to the extent practicable the location, size, and cause of any
 4919 leak;
 4920
 - 4921 4) Determine whether waste receipt should cease or be curtailed; whether any
 4922 waste should be removed from the unit for inspection, repairs, or controls;
 4923 and whether or not the unit should be closed;
 4924
 - 4925 5) Determine any other short-term and longer-term actions to be taken to
 4926 mitigate or stop any leaks; and
 4927
 - 4928 6) Within 30 days after the notification that the action leakage rate has been
 4929 exceeded, submit to the Agency the results of the determinations specified
 4930 in subsections (b)(3) through (b)(5) of this Section, the results of actions
 4931 taken, and actions planned. Monthly thereafter, as long as the flow rate in
 4932 the LDS exceeds the action leakage rate, the owner or operator must
 4933 submit to the Agency a report summarizing the results of any remedial
 4934 actions taken and actions planned.
 4935
- 4936 c) To make the leak or remediation determinations in subsections (b)(3) through
 4937 (b)(5) of this Section, the owner or operator must do either of the following:

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- 1) Perform the following assessments:
 - A) Assess the source of liquids and amounts of liquids by source;
 - B) Conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the LDS to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and
 - C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

2) Document why such assessments are not needed.

d) Final Agency determinations pursuant to this Section are deemed to be permit denials for purposes of appeal to the Board pursuant to Section 40 of the Environmental Protection Act [415 ILCS 5/40].

(Source: Renumbered from Section 725.323 and amended at 32 Ill. Reg. _____, effective _____)

SUBPART L: WASTE PILES

Section 725.355 Action Leakage Rates

- a) The owner or operator of waste pile units subject to Section 725.354 must submit a proposed action leakage rate to the Agency when submitting the notice required under Section 725.354. Within 60 days after receipt of the notification, the Agency must either establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this Section, or it must extend the review period for up to 30 days. If no action is taken by the Agency before the original 60 or extended 90 day review period, the action leakage rate must be approved as proposed by the owner or operator.
- b) The Agency must approve an action leakage rate for waste piles~~surface~~ ~~impoundment~~ units subject to Section 725.354. The action leakage rate is the maximum design flow rate that the LDS can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material, etc.), construction, operation, and location of the LDS; waste and leachate characteristics; the likelihood and amounts of other sources of liquids in the LDS; and proposed

4981 response actions (e.g., the action leakage rate must consider decreases in the flow
 4982 capacity of the system over time resulting from siltation and clogging, rib layover,
 4983 and creep of synthetic components of the system; overburden pressures; etc.).
 4984

4985 c) To determine if the action leakage rate has been exceeded, the owner or operator
 4986 must convert the weekly flow rate from the monitoring data obtained under
 4987 Section 725.360, to an average daily flow rate (gallons per acre per day) for each
 4988 sump. The average daily flow rate for each sump must be calculated weekly
 4989 during the active life and closure period.
 4990

4991 d) Final Agency determinations pursuant to this Section are deemed to be permit
 4992 denials for purposes of appeal to the Board pursuant to Section 40 of the
 4993 Environmental Protection Act [415 ILCS 5/40].
 4994

4995 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 4996

4997 **Section 725.359 Response Actions**
 4998

4999 a) The owner or operator of waste pile units subject to Section 725.354 must submit
 5000 a response action plan to the Agency when submitting the proposed action
 5001 leakage rate under Section 725.355. The response action plan must set forth the
 5002 actions to be taken if the action leakage rate has been exceeded. At a minimum,
 5003 the response action plan must describe the actions specified in subsection (b) of
 5004 this Section.
 5005

5006 b) If the flow rate into the leak determination system exceeds the action leakage rate
 5007 for any sump, the owner or operator must do the following:
 5008

5009 1) Notify the Agency in writing of the ~~exceedance~~ ~~exceedence~~ within seven
 5010 days after the determination;
 5011

5012 2) Submit a preliminary written assessment to the Agency within 14 days
 5013 after the determination as to the amount of liquids; likely sources of
 5014 liquids; possible location, size, and cause of any leaks; and short-term
 5015 actions taken and planned;
 5016

5017 3) Determine to the extent practicable the location, size, and cause of any
 5018 leak;
 5019

5020 4) Determine whether waste receipts should cease or be curtailed; whether
 5021 any waste should be removed from the unit for inspection, repairs, or
 5022 controls; and whether or not the unit should be closed;
 5023

- 5024 5) Determine any other short-term and longer-term actions to be taken to
5025 mitigate or stop any leaks; and
- 5026
- 5027 6) Within 30 days after the notification that the action leakage rate has been
5028 exceeded, submit to the Agency the results of the determinations specified
5029 in subsections (b)(3) through (b)(5) of this Section, the results of actions
5030 taken, and actions planned. Monthly thereafter, as long as the flow rate in
5031 the LDS exceeds the action leakage rate, the owner or operator must
5032 submit to the Agency a report summarizing the results of any remedial
5033 actions taken and actions planned.
- 5034
- 5035 c) To make the leak or remediation determinations in subsections (b)(3) through
5036 (b)(5) of this Section, the owner or operator must do either of the following:
- 5037
- 5038 1) Perform the following assessments:
- 5039
- 5040 A) Assess the source of liquids and amounts of liquids by source;
- 5041
- 5042 B) Conduct a fingerprint, hazardous constituent, or other analyses of
5043 the liquids in the LDS to identify the source of liquids and possible
5044 location of any leaks, and the hazard and mobility of the liquid;
5045 and
- 5046
- 5047 C) Assess the seriousness of any leaks in terms of potential for
5048 escaping into the environment; or
- 5049
- 5050 2) Document why such assessments are not needed.
- 5051
- 5052 d) Final Agency determinations pursuant to this Section are deemed to be permit
5053 denials for purposes of appeal to the Board pursuant to Section 40 of the
5054 Environmental Protection Act [415 ILCS 5/40].
- 5055

5056 (Source: Amended at 32 Ill. Reg. _____, effective _____)

5057
5058 **SUBPART M: LAND TREATMENT**

5059
5060 **Section 725.380 Closure and Post-Closure**

- 5061
- 5062 a) In the closure plan under Section 725.212 and the post-closure plan under Section
5063 725.218 the owner or operator must address the following objectives and indicate
5064 how they will be achieved:
- 5065
- 5066 1) Control of the migration of hazardous waste and hazardous waste

- 5067 constituents from the treated area into the groundwater;
 5068
 5069 2) Control of the release of contaminated runoff from the facility into surface
 5070 water;
 5071
 5072 3) Control of the release of airborne particulate contaminants caused by wind
 5073 erosion; and
 5074
 5075 4) Compliance with Section 725.376 concerning the growth of food-chain
 5076 crops.
 5077
 5078 b) The owner or operator must consider at least the following factors in addressing
 5079 the closure and post-closure care objectives of subsection (a) of this Section:
 5080
 5081 1) The type and amount of hazardous waste and hazardous waste constituents
 5082 applied to the land treatment facility;
 5083
 5084 2) The mobility and the expected rate of migration of the hazardous waste
 5085 and hazardous waste constituents;
 5086
 5087 3) The site location, topography, and surrounding land use with respect to the
 5088 potential effects of pollutant migration (e.g., proximity to groundwater,
 5089 surface water, and drinking water sources);
 5090
 5091 4) Climate, including amount, frequency, and pH of precipitation;
 5092
 5093 5) Geological and soil profiles and surface and subsurface hydrology of the
 5094 site and soil characteristics, including cation exchange capacity, total
 5095 organic carbon, and pH;
 5096
 5097 6) Unsaturated zone monitoring information obtained under Section 725.378;
 5098 and
 5099
 5100 7) The type, concentration, and depth of migration of hazardous waste
 5101 constituents in the soil, as compared to their background concentrations.
 5102
 5103 c) The owner or operator must consider at least the following methods in addressing
 5104 the closure and post-closure care objectives of subsection (a) of this Section:
 5105
 5106 1) Removal of contaminated soils;
 5107
 5108 2) Placement of a final cover, considering the following:
 5109

- 5110 A) Functions of the cover (e.g., infiltration control, erosion and runoff
5111 control, and wind erosion control); and
5112
5113 B) Characteristics of the cover, including material, final surface
5114 contours, thickness, porosity and permeability, slope, length of run
5115 of slope, and type of vegetation on the cover; and
5116
5117 3) Monitoring of groundwater.
5118
5119 d) In addition to the requirements of Subpart G of this Part during the closure period
5120 the owner or operator of a land treatment facility must do the following:
5121
5122 1) It must continue unsaturated zone monitoring in a manner and frequency
5123 specified in the closure plan, except that soil pore liquid monitoring may
5124 be terminated 90 days after the last application of waste to the treatment
5125 zone;
5126
5127 2) It must maintain the run-on control system required under Section
5128 725.372(b);
5129
5130 3) It must maintain the run-off management system required under Section
5131 725.372(c); and
5132
5133 4) It must control wind dispersal of particulate matter that may be subject to
5134 wind dispersal.
5135
5136 e) For the purpose of complying with Section 725.215, when closure is completed
5137 the owner or operator may submit to the Agency certification both by the owner
5138 or operator and by an independent qualified soil scientist, in lieu of a qualified
5139 Professional Engineer ~~an independent registered professional engineer~~, that the
5140 facility has been closed in accordance with the specifications in the approved
5141 closure plan.
5142
5143 f) In addition to the requirements of Section 725.217, during the post-closure care
5144 period the owner or operator of a land treatment unit must fulfill the following
5145 requirements:
5146
5147 1) It must continue soil-core monitoring by collecting and analyzing samples
5148 in a manner and frequency specified in the post-closure plan;
5149
5150 2) It must restrict access to the unit as appropriate for its post-closure use;
5151
5152 3) It must assure that growth of food chain crops complies with Section

5153 725.376; and

5154
5155 4) It must control wind dispersal of hazardous waste.

5156
5157 (Source: Amended at 32 Ill. Reg. _____, effective _____)

5158
5159 SUBPART N: LANDFILLS

5160
5161 **Section 725.401 Design Requirements**

5162
5163 a) The owner or operator of each new landfill unit ~~on which construction~~
5164 ~~commences after January 29, 1992~~, each lateral expansion of a landfill unit ~~on~~
5165 ~~which construction commences after July 29, 1992~~, and each replacement of an
5166 existing landfill unit ~~that is to commence reuse after July 29, 1992~~, must install
5167 two or more liners and a leachate collection and removal system above and
5168 between such liners, and operate the leachate collection and removal
5169 ~~systems~~ systems, in accordance with 35 Ill. Adm. Code 724.401(c), unless
5170 exempted by 35 Ill. Adm. Code 724.401(d), (e) or (f). ~~"Construction commences"~~
5171 ~~is as defined in 35 Ill. Adm. Code 720.110 under "existing facility."~~

5172
5173 b) The owner or operator of each unit referred to in subsection (a) of this Section
5174 must notify the Agency at least 60 days prior to receiving waste. The owner or
5175 operator of each facility submitting notice must file a Part B application within six
5176 months of the receipt of such notice.

5177
5178 c) The owner or operator of any replacement landfill unit is exempt from subsection
5179 (a) of this Section if both of the following are true:

5180
5181 1) The existing unit was constructed in compliance with the design standards
5182 of 35 Ill. Adm. Code 724.401(c), (d), and (e); and

5183
5184 BOARD NOTE: The cited subsections implemented the design standards
5185 of sections 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and
5186 Recovery Act (42 USC 6924(o)(1)(A)(i) and (o)(5)).

5187
5188 2) There is no reason to believe that the liner is not functioning as designed.

5189
5190 d) The Agency must not require a double liner as set forth in subsection (a) of this
5191 Section for any monofill, if the following conditions are fulfilled:

5192
5193 1) The monofill contains only hazardous wastes from foundry furnace
5194 emission controls or metal casting molding sand, and such ~~wastes do~~ waste
5195 ~~does~~ not contain constituents that render the wastes hazardous for reasons

- 5196 other the toxicity characteristic in 35 Ill. Adm. Code 721.124, with
 5197 hazardous waste ~~numbers~~number D004 through D017; and
 5198
- 5199 2) Alternative demonstration.
 5200
- 5201 A) Liner and location requirements.
 5202
- 5203 i) The monofill has at least one liner for which there is no
 5204 evidence that such liner is leaking;
 5205
- 5206 ii) The monofill is located more than one-quarter mile from an
 5207 underground source of drinking water (as that term is
 5208 defined in 35 Ill. Adm. Code 702.110); and
 5209
- 5210 iii) The monofill is in compliance with generally applicable
 5211 groundwater monitoring requirements for facilities with
 5212 RCRA permits; or
 5213
- 5214 B) The owner or operator demonstrates to the Board that the monofill
 5215 is located, designed, and operated so as to assure that there will be
 5216 no migration of any hazardous constituent into groundwater or
 5217 surface water at any future time.
 5218
- 5219 e) In the case of any unit in which the liner and leachate collection system have been
 5220 installed pursuant to the requirements of subsection (a) of this Section, and in
 5221 good faith compliance with subsection (a) of this Section and with guidance
 5222 documents governing liners and leachate collection systems under subsection (a),
 5223 the Agency must not require a liner or leachate collection system that is different
 5224 from that which was so installed pursuant to subsection (a) of this Section when
 5225 issuing the first permit to such facility, except that the Agency is not precluded
 5226 from requiring installation of a new liner when the Agency finds that any liner
 5227 installed pursuant to the requirements of subsection (a) of this Section is leaking.
 5228
- 5229 f) The owner or operator must design, construct, operate, and maintain a run-on
 5230 control system capable of preventing flow onto the active portion of the landfill
 5231 during peak discharge from at least a 25-year storm.
 5232
- 5233 g) The owner or operator must design, construct, operate, and maintain a run-off
 5234 management system to collect and control at least the water volume resulting
 5235 from a 24 hour, 25-year storm.
 5236
- 5237 h) Collection and holding facilities (e.g., tanks or basins) associated with run-on and
 5238 run-off control systems must be emptied or otherwise managed expeditiously after

5239 storms to maintain design capacity of the system.

5240

5241 i) The owner or operator of a landfill containing hazardous waste that is subject to
5242 dispersal by wind must cover or otherwise manage the landfill so that wind
5243 dispersal of the hazardous waste is controlled.

5244

5245 BOARD NOTE: As required by Section 725.113, the waste analysis plan must
5246 include analyses needed to comply with Sections 725.412, 725.413, and 725.414.
5247 As required by Section 725.173, the owner or operator must place the results of
5248 these analyses in the operating record of the facility.

5249

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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5251

Section 725.403 Response Actions

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5253

5254 a) The owner or operator of landfill units subject to Section 725.401(a) must develop
5255 and keep on site until closure of the facility ~~submit~~ a response action plan ~~to the~~
5256 ~~Agency when submitting the proposed action leakage rate under Section 725.402.~~
5257 The response action plan must set forth the actions to be taken if the action
5258 leakage rate has been exceeded. At a minimum, the response action plan must
5259 describe the actions specified in subsection (b) of this Section.

5260

5261 b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the
5262 owner or operator must do each of the following:

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5264 1) Notify the Agency in writing of the ~~exceedance~~exceedence within seven
5265 days after the determination;

5266

5267 2) Submit a preliminary written assessment to the Agency within 14 days
5268 after the determination, as to the amount of liquids; likely sources of
5269 liquids; possible location, size, and cause of any leaks; and short-term
5270 actions taken and planned;

5271

5272 3) Determine to the extent practicable the location, size, and cause of any
5273 leak;

5274

5275 4) Determine whether waste receipt should cease or be curtailed; whether any
5276 waste should be removed from the unit for inspection, repairs, or controls;
5277 and whether or not the unit should be closed;

5278

5279 5) Determine any other short-term and longer-term actions to be taken to
5280 mitigate or stop any leaks; and

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- 5282 6) Within 30 days after the notification that the action leakage rate has been
 5283 exceeded, submit to the Agency the results of the determinations specified
 5284 in subsections (b)(3) through (b)(5) of this Section, the results of actions
 5285 taken, and actions planned. Monthly thereafter, as long as the flow rate in
 5286 the LDS exceeds the action leakage rate, the owner or operator must
 5287 submit to the Agency a report summarizing the results of any remedial
 5288 actions taken and actions planned.
 5289
- 5290 c) To make the leak or remediation determinations in subsections (b)(3) through
 5291 (b)(5) of this Section, the owner or operator must do either of the following:
 5292
- 5293 1) Perform the following assessments:
 5294
- 5295 A) Assess the source of liquids and amounts of liquids by source;
 5296
- 5297 B) Conduct a fingerprint, hazardous constituent or other analyses of
 5298 the liquids in the LDS to identify the source of liquids and possible
 5299 location of any leaks, and the hazard and mobility of the liquid;
 5300 and
 5301
- 5302 C) Assess the seriousness of any leaks in terms of potential for
 5303 escaping into the environment; or
 5304
- 5305 2) Document why such assessments are not needed.
 5306
- 5307 d) Final Agency determinations pursuant to this Section are deemed to be permit
 5308 denials for purposes of appeal to the Board pursuant to Section 40 of the
 5309 Environmental Protection Act [415 ILCS 5/40].
 5310

5311 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 5312

5313 **Section 725.414 Special Requirements for Liquid Wastes**
 5314

- 5315 a) ~~This subsection (a) corresponds with 40 CFR 265.314(a), which pertains to the~~
 5316 ~~placement of bulk or non-containerized liquid waste or waste containing free~~
 5317 ~~liquids in a landfill prior to May 8, 1985. This statement maintains structural~~
 5318 ~~consistency with USEPA rules.~~
 5319
- 5320 ab) The placement of bulk or non-containerized liquid hazardous waste or hazardous
 5321 waste containing free liquids (whether or not sorbents have been added) in any
 5322 landfill is prohibited.
 5323
- 5324 be) Containers holding free liquids must not be placed in a landfill unless one of the

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following conditions is fulfilled:

- 1) One of the following occurs with regard to all free-standing liquid:
 - A) It has been removed by decanting or other methods;
 - B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or
 - C) It has been otherwise eliminated;
- 2) The container is very small, such as an ampule;
- 3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
- 4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.

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

de) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations.~~The placement of any liquid that is not a hazardous waste in a landfill is prohibited (35 Ill. Adm. Code 729.311).~~

ef) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are one of the following: materials listed or described in subsection (f)(1) of this Section; materials that pass one of the tests in subsection (f)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.

- 1) Nonbiodegradable sorbents are the following:
 - A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined

5368 montmorillonite, kaolinite, micas (illite), vermiculites, zeolites,
5369 calcium carbonate (organic free limestone), oxides/hydroxides,
5370 alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic
5371 glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly
5372 ash, rice hull ash, activated charcoal/activated carbon, etc.); or
5373

5374 B) High molecular weight synthetic polymers (e.g., polyethylene,
5375 high density polyethylene (HDPE), polypropylene, polystyrene,
5376 polyurethane, polyacrylate, polynorborene, polyisobutylene,
5377 ground synthetic rubber, cross-linked allylstyrene, and tertiary
5378 butyl copolymers). This does not include polymers derived from
5379 biological material or polymers specifically designed to be
5380 degradable; or
5381

5382 C) Mixtures of these nonbiodegradable materials.
5383

5384 2) Tests for nonbiodegradable sorbents.
5385

5386 A) The sorbent material is determined to be nonbiodegradable under
5387 ASTM Method G21-70 (1984a) (Standard Practice for
5388 Determining Resistance of Synthetic Polymer Materials to Fungi),
5389 incorporated by reference in 35 Ill. Adm. Code 720.111(a);
5390

5391 B) The sorbent material is determined to be nonbiodegradable under
5392 ASTM Method G22-76 (1984b) (Standard Practice for
5393 Determining Resistance of Plastics to Bacteria), incorporated by
5394 reference in 35 Ill. Adm. Code 720.111(a); or
5395

5396 C) The sorbent material is determined to be non-biodegradable under
5397 OECD Guideline for Testing of Chemicals, Method301B (CO₂
5398 Evolution (Modified Sturm Test)), incorporated by reference in 35
5399 Ill. Adm. Code 720.111(a).
5400

5401 f) The placement of any liquid that is not a hazardous waste in a landfill is
5402 prohibited. (See 35 Ill. Adm. Code 729.311.)
5403

5404 (Source: Amended at 32 Ill. Reg. _____, effective _____)
5405

5406 SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT
5407

5408 **Section 725.505 Special Requirements for Ignitable or Reactive Wastes**
5409

5410 Ignitable or reactive waste must not be placed in a treatment process or equipment unless either

5411 of the following conditions exists:

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- a) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that both of the following conditions are fulfilled:

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- 1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code ~~Section~~ 721.121 or 721.123, and

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- 2) Section 725.117(b) is complied with; or

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- b) The waste is treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

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SUBPART W: DRIP PADS

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5429

Section 725.541 Assessment of Existing Drip Pad Integrity

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- a) For each existing drip pad, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subpart W, except the requirements for liners and leak detection systems of Section 725.543(b). No later than June 6, 1991, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by ~~an independent, qualified Professional Engineer~~ registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all of the standards of Section 725.543 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of Section 725.543, except the standards for liners and leak detection systems specified in Section 725.543(b).

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- b) The owner or operator must develop a written plan for upgrading, repairing and modifying the drip pad to meet the requirements of Section 725.543(b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades, and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 725.543. The plan must be reviewed and certified by ~~an independent qualified Professional Engineer;~~ registered professional engineer. ~~All upgrades, repairs, and modifications must be completed in accordance with the following:~~

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- 1) ~~For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must be completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.~~
 - 2) ~~For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.~~
 - 3) ~~The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.~~
 - A) ~~The owner or operator must file a petition for a RCRA variance, as specified in Subpart B of 35 Ill. Adm. Code 104.~~
 - B) ~~The Board will grant the petition for extension if it finds the following:~~
 - i) ~~The drip pad meets all of the requirements of Section 725.543, except those for liners and leak detection systems specified in Section 725.543(b); and~~
 - ii) ~~That it will continue to adequately protect human health and the environment.~~
 - c) Upon completion of all repairs and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by ~~an independent, qualified Professional Engineer, registered professional engineer~~ attesting that the drip pad conforms to the drawings.
 - d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of Section 725.543(m) or close the drip pad in accordance with Section 725.545.

5489 (Source: Amended at 32 Ill. Reg. _____, effective _____)
5490

5491 **Section 725.543 Design and Operating Requirements**
5492

- 5493 a) Drip pads must fulfill the following requirements:
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5495 1) It must not~~Not~~ be constructed of earthen materials, wood, or asphalt,
5496 unless the asphalt is structurally supported;

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- 2) It must be~~Be~~ sloped to free-drain to the associated collection system treated wood drippage, rain, other waters, or solutions of drippage and water or other wastes;
- 3) It must have~~Have~~ a curb or berm around the perimeter;
- 4) In addition, the drip pad must fulfill the following requirements:
 - A) It must have~~Have~~ a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to the existing drip pads and those drip pads for which the owner or operator elects to comply with Section ~~725.542(b)~~725.542(a) instead of Section ~~725.542(a)~~725.542(b).
 - B) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by ~~an~~ independent qualified Professional Engineer ~~registered professional engineer~~ that attests to the results of the evaluation. The assessment must be reviewed, updated, and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this Section, except for in subsection (b) of this Section.
- 5) It must be~~Be~~ of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

BOARD NOTE: In judging the structural integrity requirement of this subsection (a), the Agency should generally consider applicable standards established by professional organizations generally recognized by the industry, including ACI 318-83 (Building Code Requirements for Reinforced Concrete) or ASTM C 94-90

5540 (Standard Specification for Ready-Mixed Concrete), incorporated by reference in
5541 35 Ill. Adm. Code 720.111(a).

5542
5543 b) If an owner or operator elects to comply with Section ~~725.542(a)~~725.542(b)
5544 instead of Section ~~725.542(b)~~725.542(a), the drip pad must have the following
5545 features:

5546
5547 1) A synthetic liner installed below the drip pad that is designed, constructed,
5548 and installed to prevent leakage from the drip pad into the adjacent
5549 subsurface soil or groundwater or surface water at any time during the
5550 active life (including the closure period) of the drip pad. The liner must be
5551 constructed of materials that will prevent waste from being absorbed into
5552 the liner and to prevent releases into the adjacent subsurface soil or
5553 groundwater or surface water during the active life of the facility. The
5554 liner must be constructed as follows:

5555
5556 A) ~~It must be constructed~~Constructed of materials that have
5557 appropriate chemical properties and sufficient strength and
5558 thickness to prevent failure due to pressure gradients (including
5559 static head and external hydrogeologic forces), physical contact
5560 with the waste or drip pad leakage to which they are exposed,
5561 climatic conditions, the stress of installation, and the stress of daily
5562 operation (including stresses from vehicular traffic on the drip
5563 pad);

5564
5565 B) ~~It must be placed~~Placed upon a foundation or base capable of
5566 providing support to the liner and resistance to pressure gradients
5567 above and below the liner to prevent failure of the liner due to
5568 settlement, compression, or uplift; and

5569
5570 C) ~~It must be installed~~Installed to cover all surrounding earth that
5571 could come in contact with the waste or leakage; and

5572
5573 2) A leakage detection system immediately above the liner that is designed,
5574 constructed, maintained, and operated to detect leakage from the drip pad.
5575 The leakage detection system must be constructed as follows:

5576
5577 A) ~~It must be constructed~~Constructed of materials that fulfill the
5578 following requirements:

5579
5580 i) They are chemically resistant to the waste managed in the
5581 drip pad and the leakage that might be generated; and
5582

5626 this Section.

- 5627
- 5628 h) Dripping and accumulated precipitation must be removed from the associated
- 5629 collection system as necessary to prevent overflow onto the drip pad.
- 5630
- 5631 i) The drip pad surface must be cleaned thoroughly at least once every seven days
- 5632 using an appropriate and effective cleaning technique, including but not limited
- 5633 to, rinsing, washing with detergents or other appropriate solvents, or steam
- 5634 cleaning, with residues being properly managed, such that accumulated residues
- 5635 of hazardous waste or other materials are removed as to allow weekly inspections
- 5636 of the entire drip pad surface without interference or hindrance from accumulated
- 5637 residues of hazardous waste or other materials on the drip pad. The owner or
- 5638 operator must document, in the facility's operating log, the date and time of each
- 5639 cleaning and the cleaning procedure.
- 5640
- 5641 j) Drip pads must be operated and maintained in a manner to minimize tracking of
- 5642 hazardous waste or hazardous waste constituents off the drip pad as a result of
- 5643 activities by personnel or equipment.
- 5644
- 5645 k) After being removed from the treatment vessel, treated wood from pressure and
- 5646 non-pressure processes must be held on the drip pad until dripping has ceased.
- 5647 The owner or operator must maintain records sufficient to document that all
- 5648 treated wood is held on the pad, in accordance with this Section, following
- 5649 treatment.
- 5650
- 5651 l) Collection and holding units associated with run-on and run-off control systems
- 5652 must be emptied or otherwise managed as soon as possible after storms to
- 5653 maintain design capacity of the system.
- 5654
- 5655 m) Throughout the active life of the drip pad, if the owner or operator detects a
- 5656 condition that may have caused or has caused a release of hazardous waste, the
- 5657 condition must be repaired within a reasonably prompt period of time following
- 5658 discovery, in accordance with the following procedures:
- 5659
- 5660 1) Upon detection of a condition that may have caused or has caused a
- 5661 release of hazardous waste (e.g., upon detection of leakage in the leak
- 5662 detection system), the owner or operator must perform the following acts:
- 5663
- 5664 A) It must enter~~Enter~~ a record of the discovery in the facility
- 5665 operating log;
- 5666
- 5667 B) It must immediately~~Immediately~~ remove from service the portion
- 5668 of the drip pad affected by the condition;

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- C) ~~It must determine~~ Determine what steps must be taken to repair the drip pad, clean up any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs;
- D) Within 24 hours after discovery of the condition, the owner or operator must notify the Agency of the condition and, within 10 working days, provide written notice to the Agency with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

- 2) The Agency must: review the information submitted; make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete; and notify the owner or operator of the determination and the underlying rationale in writing.
- 3) Upon completing all repairs and clean up, the owner or operator must notify the Agency in writing and provide a certification, signed by an independent, qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with subsection (m)(1)(D) of this Section.

- n) The owner or operator must maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of drippage management practices and a description of treated wood storage and handling practices.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 725.544 Inspections

- a) During construction or installation, liners and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements of Section 725.543 by ~~an independent, qualified Professional Engineer, registered professional engineer.~~ ThisThe certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

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- b) While a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:
 - 1) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;
 - 2) The presence of leakage in and proper functioning of leak detection system.
 - 3) Deterioration or cracking of the drip pad surface.

BOARD NOTE: See Section 725.543(m) for remedial action required if deterioration or leakage is detected.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section 725.961 Percent Leakage Alternative for Valves

- a) An owner or operator subject to the requirements of Section 725.957 may elect to have all valves within a hazardous waste management unit comply with an alternative standard that allows no greater than two percent of the valves to leak.
- b) The following requirements must be met if an owner or operator decides to comply with the alternative standard of allowing two percent of valves to leak:
 - ~~1)~~ ~~An owner or operator must notify the Agency that the owner or operator has elected to comply with the requirements of this Section;~~
 - 1) A performance test as specified in subsection (c) of this Section must be conducted initially upon designation, annually and other times as specified by the Agency pursuant to Section 725.950(e); and
 - 2) If a valve leak is detected it must be repaired in accordance with Section 725.957(d) and (e).
- c) Performance tests must be conducted in the following manner:
 - 1) All valves subject to the requirements in Section 725.957 within the hazardous waste management unit must be monitored within 1 week by the methods specified in Section 725.963(b);

- 5755
 5756 2) If an instrument reading of 10,000 ppm or greater is measured, a leak is
 5757 detected; and
 5758
 5759 3) The leak percentage must be determined by dividing the number of valves
 5760 subject to the requirements in Section 725.957 for which leaks are
 5761 detected by the total number of valves subject to the requirements in
 5762 Section 725.957 within the hazardous waste management unit.
 5763
 5764 ~~d) If an owner or operator decides no longer to comply with this Section, the owner~~
 5765 ~~or operator must notify the Agency in writing that the work practice standard~~
 5766 ~~described in Section 725.957(a) through (e) will be followed.~~

5767
 5768 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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5770 **Section 725.962 Skip Period Alternative for Valves**

- 5771
 5772 a) ~~Election.~~
 5773
 5774 a) An owner or operator subject to the requirements of Section 725.957 may elect
 5775 for all valves within a hazardous waste management unit to comply with one of
 5776 the alternative work practices specified in subsections (b)(2) and (b)(3) of this
 5777 Section.
 5778
 5779 ~~2) An owner or operator must notify the Agency before implementing one of~~
 5780 ~~the alternative work practices.~~
 5781
 5782 b) Reduced Monitoring.
 5783
 5784 1) An owner or operator must comply with the requirements for valves, as
 5785 described in Section 725.957, except as described in subsections (b)(2)
 5786 and (b)(3) of this Section.
 5787
 5788 2) After two consecutive quarterly leak detection periods with the percentage
 5789 of valves leaking equal to or less than two percent, an owner or operator
 5790 may begin to skip one of the quarterly leak detection periods (i.e., the
 5791 owner or operator may monitor for leaks once every six months) for the
 5792 valves subject to the requirements in Section 725.957.
 5793
 5794 3) After five consecutive quarterly leak detection periods with the percentage
 5795 of valves leaking equal to or less than two percent, an owner or operator
 5796 may begin to skip three of the quarterly leak detection periods (i.e., the
 5797 owner or operator may monitor for leaks once every year) for the valves

5798 subject to the requirements in Section 725.957.

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- 5800 4) If the percentage of valves leaking is greater than two percent, the owner
 5801 or operator must monitor monthly in compliance with the requirements in
 5802 Section 725.957, but may again elect to use this Section after meeting the
 5803 requirements of Section 725.957(c)(1).
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5805 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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5807 SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
 5808 IMPOUNDMENTS, AND CONTAINERS
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5810 **Section 725.990 Recordkeeping Requirements**
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- 5812 a) Each owner or operator of a facility subject to the requirements in this Subpart CC
 5813 must record and maintain the information specified in subsections (b) through (j)
 5814 of this Section, as applicable to the facility. Except for air emission control
 5815 equipment design documentation and information required by subsection (j) of
 5816 this Section, records required by this Section must be maintained in the operating
 5817 record for a minimum of three years. Air emission control equipment design
 5818 documentation must be maintained in the operating record until the air emission
 5819 control equipment is replaced or is otherwise no longer in service. Information
 5820 required by subsections (i) and (j) of this Section must be maintained in the
 5821 operating record for as long as the waste management unit is not using air
 5822 emission controls specified in Sections 725.985 through 725.988, in accordance
 5823 with the conditions specified in Section 725.980(d) or (b)(7), respectively.
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- 5825 b) The owner or operator of a tank using air emission controls in accordance with the
 5826 requirements of Section 725.985 must prepare and maintain records for the tank
 5827 that include the following information:
 5828

- 5829 1) For each tank using air emission controls in accordance with the
 5830 requirements of Section 725.985 of this Subpart CC, the owner or operator
 5831 must record the following information:
 5832

- 5833 A) A tank identification number (or other unique identification
 5834 description as selected by the owner or operator); and
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- 5836 B) A record for each inspection required by Section 725.985 that
 5837 includes the following information:
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- 5839 i) Date inspection was conducted; and
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- ii) For each defect detected during the inspection, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.985, the owner or operator must also record the reason for the delay and the date that completion of repair of the defect is expected; and
- 5850 2) In addition to the information required by subsection (b)(1) of this Section,
5851 the owner or operator must record the following information, as applicable
5852 to the tank:
- 5853
- A) The owner or operator using a fixed roof to comply with the Tank Level 1 control requirements specified in Section 725.985(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of Section 725.985(c). The records must include the date and time the samples were collected, the analysis method used, and the analysis results;
 - B) The owner or operator using an internal floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(e) must prepare and maintain documentation describing the floating roof design;
 - C) Owners and operators using an external floating roof to comply with the Tank Level 2 control requirements specified in Section 725.985(f) must prepare and maintain the following records:
 - 5872 i) Documentation describing the floating roof design and the
5873 dimensions of the tank; and
 - 5874
 - 5875 ii) Records for each seal gap inspection required by Section
5876 725.985(f)(3) describing the results of the seal gap
5877 measurements. The records must include the date that the
5878 measurements were performed, the raw data obtained for
5879 the measurements, and the calculations of the total gap
5880 surface area. In the event that the seal gap measurements
5881 do not conform to the specifications in Section
5882 725.985(f)(1), the records must include a description of the
5883 repairs that were made, the date the repairs were made, and

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the date the tank was emptied, if necessary.

- D) Each owner or operator using an enclosure to comply with the Tank Level 2 control requirements specified in Section 725.985(i) must prepare and maintain the following records:
 - i) Records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and
 - ii) Records required for the closed-vent system and control device in accordance with the requirements of subsection (e) of this Section.

- c) The owner or operator of a surface impoundment using air emission controls in accordance with the requirements of Section 725.986 must prepare and maintain records for the surface impoundment that include the following information:
 - 1) A surface impoundment identification number (or other unique identification description as selected by the owner or operator);
 - 2) Documentation describing the floating membrane cover or cover design, as applicable to the surface impoundment, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in Section 725.986(c);
 - 3) A record for each inspection required by Section 725.986 that includes the following information:
 - A) Date inspection was conducted; and
 - B) For each defect detected during the inspection the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the provisions of Section 725.986(f), the owner or

- 5927 operator must also record the reason for the delay and the date that
 5928 completion of repair of the defect is expected; and
 5929
 5930 4) For a surface impoundment equipped with a cover and vented through a
 5931 closed-vent system to a control device, the owner or operator must prepare
 5932 and maintain the records specified in subsection (e) of this Section.
 5933
 5934 d) The owner or operator of containers using Container Level 3 air emission controls
 5935 in accordance with the requirements of Section 725.987 must prepare and
 5936 maintain records that include the following information:
 5937
 5938 1) Records for the most recent set of calculations and measurements
 5939 performed by the owner or operator to verify that the enclosure meets the
 5940 criteria of a permanent total enclosure as specified in "Procedure T –
 5941 Criteria for and Verification of a Permanent or Temporary Total
 5942 Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement
 5943 Techniques for Capture Efficiency); and
 5944
 5945 2) Records required for the closed-vent system and control device in
 5946 accordance with the requirements of subsection (e) of this Section.
 5947
 5948 e) The owner or operator using a closed-vent system and control device in
 5949 accordance with the requirements of Section 725.988 must prepare and maintain
 5950 records that include the following information:
 5951
 5952 1) Documentation for the closed-vent system and control device that includes
 5953 the following:
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 5955 A) Certification that is signed and dated by the owner or operator
 5956 stating that the control device is designed to operate at the
 5957 performance level documented by a design analysis as specified in
 5958 subsection (e)(1)(B) of this Section or by performance tests as
 5959 specified in subsection (e)(1)(C) of this Section when the tank,
 5960 surface impoundment, or container is or would be operating at
 5961 capacity or the highest level reasonably expected to occur;
 5962
 5963 B) If a design analysis is used, then design documentation, as
 5964 specified in Section 725.935(b)(4). The documentation must
 5965 include information prepared by the owner or operator or provided
 5966 by the control device manufacturer or vendor that describes the
 5967 control device design in accordance with Section 725.935(b)(4)(C)
 5968 and certification by the owner or operator that the control
 5969 equipment meets the applicable specifications;

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- C) If performance tests are used, then a performance test plan as specified in Section 725.935(b)(3) and all test results;
- D) Information as required by Section 725.935(c)(1) and (c)(2), as applicable;
- E) An owner or operator must record, on a semiannual basis, the following information for those planned routine maintenance operations that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:
 - i) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next six-month period. This description must include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods; and
 - ii) A description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description must include the type of maintenance performed and the total number of hours during those six months that the control device did not meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable, due to planned routine maintenance;
- F) An owner or operator must record the following information for those unexpected control device system malfunctions that would require the control device not to meet the requirements of Section 725.988(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable:
 - i) The occurrence and duration of each malfunction of the control device system;
 - ii) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning; and
 - iii) Actions taken during periods of malfunction to restore a

- 6013 malfunctioning control device to its normal or usual
 6014 manner of operation; and
- 6015
- 6016 G) Records of the management of carbon removed from a carbon
 6017 adsorption system conducted in accordance with Section
 6018 725.988(c)(3)(B).
 6019
- 6020 f) The owner or operator of a tank, surface impoundment, or container exempted
 6021 from standards in accordance with the provisions of Section 725.983(c) must
 6022 prepare and maintain the following records, as applicable:
 6023
- 6024 1) For tanks, surface impoundments, or containers exempted under the
 6025 hazardous waste organic concentration conditions specified in Section
 6026 725.983(c)(1) or ~~725.983(c)(2)(A)~~725.984(e)(2)(A) through (c)(2)(F), the
 6027 owner or operator must record the information used for each waste
 6028 determination (e.g., test results, measurements, calculations, and other
 6029 documentation) in the facility operating log. If analysis results for waste
 6030 samples are used for the waste determination, then the owner or operator
 6031 must record the date, time, and location that each waste sample is
 6032 collected in accordance with the applicable requirements of Section
 6033 725.984; and
 6034
- 6035 2) For tanks, surface impoundments, or containers exempted under the
 6036 provisions of Section 725.983(c)(2)(G) or (c)(2)(H), the owner or operator
 6037 must record the identification number for the incinerator, boiler, or
 6038 industrial furnace in which the hazardous waste is treated.
 6039
- 6040 g) An owner or operator designating a cover as "unsafe to inspect and monitor"
 6041 pursuant to Section 725.985(l) must record in a log that is kept in the facility
 6042 operating record the following information: the identification numbers for waste
 6043 management units with covers that are designated as "unsafe to inspect and
 6044 monitor," the explanation for each cover stating why the cover is unsafe to inspect
 6045 and monitor, and the plan and schedule for inspecting and monitoring each cover.
 6046
- 6047 h) The owner or operator of a facility that is subject to this Subpart CC and to the
 6048 control device standards in federal subpart VV of 40 CFR 60 (Standards of
 6049 Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals
 6050 Manufacturing Industry), or subpart V of 40 CFR 61 (National Emission Standard
 6051 for Equipment Leaks (Fugitive Emission Sources), each incorporated by reference
 6052 in 35 Ill. Adm. Code 270.111, may elect to demonstrate compliance with the
 6053 applicable Sections of this Subpart by documentation either pursuant to this
 6054 Subpart CC, or pursuant to the provisions of subpart VV of 40 CFR 60 or subpart
 6055 V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or

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61 duplicates the documentation required by this Section.

- i) For each tank or container not using air emission controls specified in Sections 725.985 through 725.988 in accordance with the conditions specified in Section 725.980(d), the owner or operator must record and maintain the following information:
 - 1) A list of the individual organic peroxide compounds manufactured at the facility that meet the conditions specified in Section 725.980(d)(1);
 - 2) A description of how the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) are managed at the facility in tanks and containers. This description must include the following information:
 - A) For the tanks used at the facility to manage this hazardous waste, sufficient information must be provided to describe each tank: a facility identification number for the tank, the purpose and placement of this tank in the management train of this hazardous waste, and the procedures used to ultimately dispose of the hazardous waste managed in the tanks; and
 - B) For containers used at the facility to manage this hazardous waste, sufficient information must be provided to describe the following for each container: a facility identification number for the container or group of containers; the purpose and placement of this container or group of containers in the management train of this hazardous waste; and the procedures used to ultimately dispose of the hazardous waste handled in the containers; and
 - 3) An explanation of why managing the hazardous waste containing the organic peroxide compounds identified pursuant to subsection (i)(1) of this Section in the tanks or containers identified pursuant to subsection (i)(2) of this Section would create an undue safety hazard if the air emission controls specified in Sections 725.985 through 725.988 were installed and operated on these waste management units. This explanation must include the following information:
 - A) For tanks used at the facility to manage this hazardous waste, sufficient information must be provided to explain: how use of the required air emission controls on the tanks would affect the tank design features and facility operating procedures currently used to prevent an undue safety hazard during the management of this

6099 hazardous waste in the tanks; and why installation of safety
6100 devices on the required air emission controls, as allowed under this
6101 Subpart CC, would not address those situations in which
6102 evacuation of tanks equipped with these air emission controls is
6103 necessary and consistent with good engineering and safety
6104 practices for handling organic peroxides; and
6105

6106 B) For containers used at the facility to manage this hazardous waste,
6107 sufficient information must be provided to explain: how use of the
6108 required air emission controls on the containers would affect the
6109 container design features and handling procedures currently used
6110 to prevent an undue safety hazard during management of this
6111 hazardous waste in the containers; and why installation of safety
6112 devices on the required air emission controls, as allowed under this
6113 Subpart CC, would not address those situations in which
6114 evacuation of containers equipped with these air emission controls
6115 is necessary and consistent with good engineering and safety
6116 practices for handling organic peroxides.
6117

6118 j) For each hazardous waste management unit not using air emission controls
6119 specified in Sections 725.985 through 725.988 in accordance with the provisions
6120 of Section 725.980(b)(7), the owner and operator must record and maintain the
6121 following information:
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6123 1) The certification that the waste management unit is equipped with and
6124 operating air emission controls in accordance with the requirements of an
6125 applicable federal Clean Air Act regulation codified under 40 CFR 60, 61,
6126 or 63; and
6127

6128 2) An identification of the specific federal requirements codified under 40
6129 CFR 60, 61, or 63 with which the waste management unit is in
6130 compliance.
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6132 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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6134 SUBPART DD: CONTAINMENT BUILDINGS
6135

6136 **Section 725.1100 Applicability**
6137

6138 The requirements of this Subpart DD apply to owners or operators that store or treat hazardous
6139 waste in units designed and operated under Section 725.1101. ~~These provisions will become~~
6140 ~~effective on February 18, 1993.~~ The owner or operator is not subject to the definition of land
6141 disposal in 35 Ill. Adm. Code 728.102 provided that the following is true of the unit:

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- a) It is a completely enclosed, self-supporting structure that is designed and constructed of manmade materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to any of the following causes:
 - 1) Pressure gradients;
 - 2) Settlement, compression, or uplift;
 - 3) Physical contact with the hazardous wastes to which they are exposed;
 - 4) Climatic conditions; or
 - 5) The stresses of daily operation including the movement of heavy equipment within the unit and contact of such equipment with containment walls;
 - b) It has a primary barrier that is designed to be sufficiently durable to withstand the movement of personnel, wastes, and handling equipment within the unit;
 - c) If used to manage liquids, the unit has the following design features:
 - 1) A primary barrier designed and constructed of materials to prevent migration of hazardous constituents into the barrier;
 - 2) A liquid collection system designed and constructed of materials to minimize the accumulation of liquid on the primary barrier; and
 - 3) A secondary containment system designed and constructed of materials to prevent migration of hazardous constituents into the barrier, with a leak detection and liquid collection system capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest possible time, unless the unit has been granted a variance from the secondary containment system requirements under subsection 725.1101(b)(4);
 - d) It has controls sufficient to ~~prevent~~^{permit} fugitive dust emissions to meet the no visible emission standard in subsection 725.1101(c)(1)(D); and
 - e) It is designed and operated to ensure containment and prevent the tracking of materials from the unit by personnel or equipment.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 725.1101 Design and Operating Standards

- a) All containment buildings must comply with the following design and operating standards:
 - 1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g. precipitation, wind, run on) and to assure containment of managed wastes;
 - 2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b) of this Section, must be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls. The unit must be designed so that it has sufficient structural strength to prevent collapse or other failure. All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes. The containment building must meet the structural integrity requirements established by professional organizations generally recognized by the industry such as the American Concrete Institute ({ACI}) and the American Society of Testing Materials ({ASTM}). If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet these criteria:
 - A) They provide an effective barrier against fugitive dust emissions under subsection (c)(1)(D) of this Section; and
 - B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings;
 - 3) Incompatible hazardous wastes or treatment reagents must not be placed in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail; and
 - 4) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and

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chemical characteristics of the waste to be managed.

- b) For a containment building used to manage hazardous wastes containing free liquids or treated with free liquids (the presence of which is determined by the paint filter test, a visual examination, or other appropriate means), the owner or operator must include the following design features:
 - 1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).
 - 2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building:
 - A) The primary barrier must be sloped to drain liquids to the associated collection system; and
 - B) Liquids and waste must be collected and removed to minimize hydraulic head on the containment system at the earliest practicable time.
 - 3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.
 - A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:
 - i) It is constructed with a bottom slope of 1 percent or more; and
 - ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m²/sec or more.
 - B) If treatment is to be conducted in the building, an area in which such treatment will be conducted must be designed to prevent the release of liquids, wet materials, or liquid aerosols to other portions

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of the building.

- C) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of Section ~~725.293(e)(1)~~725.293(d)(1). In addition, the containment building must meet the requirements of subsections 725.293(b) and (c) to be an acceptable secondary containment system for a tank.)

- 4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must do each of the following:
 - A) Provide written notice to USEPA of their request by November 16, 1992. This notification must describe the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;
 - B) Respond to any comments from USEPA on these plans within 30 days; and
 - C) Fulfill the terms of the revised plans, if such plans are approved by USEPA.

- c) Owners or operators of all containment buildings must do each of the following:
 - 1) ~~It must use~~Use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum do each of the following:
 - A) ~~It must maintain~~Maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;

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

BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv)-(2004), USEPA cites "40 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (August 18, 1992), USEPA repeats this citation in the preamble discussion of adoption of the rules. No such provision exists in the Code of Federal Regulations. The Board has chosen to use the general citation: "40 CFR 60."

- 2) ~~It must obtain and keep on-site a~~ Obtain certification by a qualified ~~Professional Engineer~~ registered professional engineer (PE) that the containment building design meets the requirements of subsections (a) through (c) of this Section. ~~For units placed into operation prior to February 18, 1993, this certification must be placed in the facility's operating record (on-site files for generators that are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit;~~
- 3) Throughout the active life of the containment building, if the owner or

6357 operator detects a condition that could lead to or has caused a release of
6358 hazardous waste, it must repair the condition promptly in accordance with
6359 the following procedures. ~~In addition, however, the owner or operator~~
6360 ~~must do the following:~~

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6362 A) Upon detection of a condition that has caused to a release of
6363 hazardous wastes (e.g., upon detection of leakage from the primary
6364 barrier) the owner or operator must do the following:

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6366 i) Enter a record of the discovery in the facility operating
6367 record;

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6369 ii) Immediately remove the portion of the containment
6370 building affected by the condition from service;

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6372 iii) Determine what steps must be taken to repair the
6373 containment building, remove any leakage from the
6374 secondary collection system, and establish a schedule for
6375 accomplishing the cleanup and repairs; and

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6377 iv) Within seven days after the discovery of the condition,
6378 notify the Agency in writing of the condition, and within 14
6379 working days, provide a written notice to the Agency with
6380 a description of the steps taken to repair the containment
6381 building, and the schedule for accomplishing the work;

6382
6383 B) The Agency must review the information submitted, make a
6384 determination regarding whether the containment building must be
6385 removed from service completely or partially until repairs and
6386 cleanup are complete, and notify the owner or operator of the
6387 determination and the underlying rationale in writing; and

6388
6389 C) Upon completing all repairs and cleanup the owner and operator
6390 must notify the Agency in writing and provide a verification,
6391 signed by a qualified, registered professional engineer, that the
6392 repairs and cleanup have been completed according to the written
6393 plan submitted in accordance with subsection (c)(3)(A)(iv) of this
6394 Section; and

6395
6396 4) It must inspect~~inspect~~ and record in the facility's operating record; at least
6397 once every seven days, except for the owner or operator of a Performance
6398 Track member facility, which must inspect the record at least once each
6399 month after approval of the Agency, data gathered from monitoring

6400 equipment and leak detection equipment as well as the containment
6401 building and the area immediately surrounding the containment building
6402 to detect signs of releases of hazardous waste. To apply for a reduced
6403 inspection frequency, the owner or operator of a Performance Track
6404 member facility must follow the procedures described in Section
6405 725.115(b)(5).
6406

- 6407 d) For a containment building~~buildings~~ that contain~~contain~~ areas both with and
6408 without secondary containment, the owner or operator must do the following:
6409
- 6410 1) Design and operate each area in accordance with the requirements
6411 enumerated in subsections (a) through (c) of this Section;
 - 6412 2) Take measures to prevent the release of liquids or wet materials into areas
6413 without secondary containment; and
6414
 - 6415 3) Maintain in the facility's operating log a written description of the
6416 operating procedures used to maintain the integrity of areas without
6417 secondary containment.
6418
- 6419
- 6420 e) Notwithstanding any other provision of this Subpart DD, the Agency must, in
6421 writing, allow the use of alternatives to the requirements for~~not require~~ secondary
6422 containment for a permitted containment building where the Agency has
6423 determined that the facility owner or operator has adequately
6424 demonstrated~~demonstrates~~ that the only free liquids in the unit are limited
6425 amounts of dust suppression liquids required to meet occupational health and
6426 safety requirements, and where containment of managed wastes and liquids can
6427 be assured without a secondary containment system.
6428

6429 (Source: Amended at 32 Ill. Reg. _____, effective _____)

6430 **Section 725.APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at**
 6431 **25°C)**

6432
 6433

Compound name	CAS No.
Acetaldol	107-89-1
Acetamide	60-35-5
2-Acetylaminofluorene	53-96-3
3-Acetyl-5-hydroxypiperidine	
3-Acetylpyperidine	618-42-8
1-Acetyl-2-thiourea	591-08-2
Acrylamide	79-06-1
Acrylic acid	79-10-7
Adenine	73-24-5
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alachlor	15972-60-8
Aldicarb	116-06-3
Ametryn	834-12-8
4-Aminobiphenyl	92-67-1
4-Aminopyridine	504-24-5
Aniline	62-53-3
o-Anisidine	90-04-0
Anthraquinone	84-65-1
Atrazine	1912-24-9
Benzeneearsonic acid	98-05-5
Benzenesulfonic acid	98-11-3
Benzidine	92-87-5
Benzo(a)anthracene	56-55-3
Benzo(k)fluoranthene	207-08-9
Benzoic acid	65-85-0
Benzo(g,h,i)perylene	191-24-2
Benzo(a)pyrene	50-32-8
Benzyl alcohol	100-51-6
γ-BHC	58-89-9
Bis(2-ethylhexyl)phthalate	117-81-7
Bromochloromethyl acetate	
Bromoxynil (3,5-Dibromo-4-hydroxybenzonitrile)	1689-84-5
Butyric acid	107-92-6
Caprolactam (hexahydro-2H-azepin-2-one)	105-60-2
Catechol(o-dihydroxybenzene)	120-80-9
Cellulose	9004-34-6

Cell wall	
Chlorhydrin (3-Chloro-1,2-propanediol)	96-24-2
Chloroacetic acid	79-11-8
2-Chloroacetophenone	93-76-5
p-Chloroaniline	106-47-8
p-Chlorobenzophenone	134-85-0
Chlorobenzilate	510-15-6
p-Chloro-m-cresol (6-chloro-m-cresol)	59-50-7
3-Chloro-2,5-diketopyrrolidine	
Chloro-1,2-ethane diol	
4-Chlorophenol	106-48-9
Chlorophenol polymers (2-chlorophenol & 4-chlorophenol)	95-57-8 & 106-48-9
1-(o-Chlorophenyl)thiourea	5344-82-1
Chrysene	218-01-9
Citric acid	77-92-9
Creosote	8001-58-9
m-Cresol	108-39-4
o-Cresol	95-48-7
p-Cresol	106-44-5
Cresol (mixed isomers)	1319-77-3
4-Cumylphenol	27576-86
Cyanide	57-12-5
4-Cyanomethyl benzoate	
Diazinon	333-41-5
Dibenzo(a,h)anthracene	53-70-3
Dibutylphthalate	84-74-2
2,5-Dichloroaniline (N,N'-dichloroaniline)	95-82-9
2,6-Dichlorobenzonitrile	1194-65-6
2,6-Dichloro-4-nitroaniline	99-30-9
2,5-Dichlorophenol	333-41-5
3,4-Dichlorotetrahydrofuran	3511-19
Dichlorvos (DDVP)	62-73-7
Diethanolamine	111-42-2
N,N-Diethylaniline	91-66-7
Diethylene glycol	111-46-6
Diethylene glycol dimethyl ether (dimethyl Carbitol)	111-96-6
Diethylene glycol monobutyl ether (butyl Carbitol)	112-34-5
Diethylene glycol monoethyl ether acetate (Carbitol acetate)	112-15-2
Diethylene glycol monoethyl ether (Carbitol Cellosolve)	111-90-0
Diethylene glycol monomethyl ether (methyl Carbitol)	111-77-3
N,N'-Diethylhydrazine	1615-80-1
Diethyl(4-methylumbelliferyl)thionophosphate	299-45-6
Diethylphosphorothioate	126-75-0

N,N'-Diethylpropionamide	15299-99-7
Dimethoate	60-51-5
2,3-Dimethoxystrychnidin-10-one	357-57-3
4-Dimethylaminoazobenzene	60-11-7
7,12-Dimethylbenz(a)anthracene	57-97-6
3,3-Dimethylbenzidine	119-93-7
Dimethylcarbamoyl chloride	79-44-7
Dimethyldisulfide	624-92-0
Dimethylformamide	68-12-2
1,1-Dimethylhydrazine	57-14-7
Dimethylphthalate	131-11-3
Dimethylsulfone	67-71-0
Dimethylsulfoxide	67-68-5
4,6-Dinitro-o-cresol	534-52-1
1,2-Diphenylhydrazine	122-66-7
Dipropylene glycol (1,1'-oxydi-2-propanol)	110-98-5
Endrin	72-20-8
Epinephrine	51-43-4
mono-Ethanolamine	141-43-5
Ethyl carbamate (urethane)	51-79-6
Ethylene glycol	107-21-1
Ethylene glycol monobutyl ether (butyl Cellosolve)	111-76-2
Ethylene glycol monoethyl ether (Cellosolve)	110-80-5
Ethylene glycol monoethyl ether acetate (Cellosolve acetate)	111-15-9
Ethylene glycol monomethyl ether (methyl Cellosolve)	109-86-4
Ethylene glycol monophenyl ether (phenyl Cellosolve)	122-99-6
Ethylene glycol monopropyl ether (propyl Cellosolve)	2807-30-9
Ethylene thiourea (2-imidazolidinethione)	96-45-79-64-57
4-Ethylmorpholine	100-74-3
3-Ethylphenol	620-17-7
Fluoroacetic acid, sodium salt	62-74-8
Formaldehyde	50-00-0
Formamide	75-12-7
Formic acid	64-18-6
Fumaric acid	110-17-8
Glutaric acid	110-94-1
Glycerin (Glycerol)	56-81-5
Glycidol	556-52-5
Glycinamide	598-41-4
Glyphosate	1071-83-6
Guthion	86-50-0
Hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane)	822-06-0
Hexamethyl phosphoramidate	680-31-9

Hexanoic acid	142-62-1
Hydrazine	302-01-2
Hydrocyanic acid	74-90-8
Hydroquinone	123-31-9
Hydroxy-2-propionitrile (hydracrylonitrile)	109-78-4
Indeno(1,2,3-cd)pyrene	193-39-5
Lead acetate	301-04-2
Lead subacetate (lead acetate, monobasic)	1335-32-6
Leucine	61-90-5
Malathion	121-75-5
Maleic acid	110-16-7
Maleic anhydride	108-31-6
Mesityl oxide	141-79-7
Methane sulfonic acid	75-75-2
Methomyl	16752-77-5
p-Methoxyphenol	150-76-5
Methylacrylate	96-33-3
4,4'-Methylene-bis-(2-chloroaniline)	101-14-4
4,4'-Methylenediphenyl diisocyanate (diphenyl methane diisocyanate)	101-68-8
4,4'-Methylenedianiline	101-77-9
Methylene diphenylamine (MDA)	
5-Methylfurfural	620-02-0
Methylhydrazine	60-34-4
Methyliminoacetic acid	
Methyl methane sulfonate	66-27-3
1-Methyl-2-methoxyaziridine	
Methylparathion	298-00-0
Methyl sulfuric acid (sulfuric acid, dimethyl ester)	77-78-1
4-Methylthiophenol	106-45-6
Monomethylformamide (N-methylformamide)	123-39-7
Nabam	142-59-6
α -Naphthol	90-15-3
β -Naphthol	135-19-3
α -Naphthylamine	134-32-7
β -Naphthylamine	91-59-8
Neopentyl glycol	126-30-7
Niacinamide	98-92-0
o-Nitroaniline	88-74-4
Nitroglycerin	55-63-0
2-Nitrophenol	88-75-5
4-Nitrophenol	100-02-7
N-Nitrosodimethylamine	62-75-9
Nitrosoguanidine	674-81-7

N-Nitroso-n-methylurea	684-93-5
N-Nitrosomorpholine (4-nitrosomorpholine)	59-89-2
Oxalic acid	144-62-7
Parathion	56-38-2
Pentaerythritol	115-77-5
Phenacetin	62-44-2
Phenol	108-95-2
Phenylacetic acid	103-82-2
m-Phenylene diamine	108-45-2
o-Phenylene diamine	95-54-5
p-Phenylene diamine	106-50-3
Phenyl mercuric acetate	62-38-4
Phorate	298-02-2
Phthalic anhydride	85-44-9
α -Picoline (2-methyl pyridine)	109-06-8
1,3-Propane sulfone	1120-71-4
β -Propiolactone	57-57-8
Proporur (Baygon)	
Propylene glycol	57-55-6
Pyrene	129-00-0
Pyridinium bromide	39416-48-3
Quinoline	91-22-5
Quinone (p-benzoquinone)	106-51-4
Resorcinol	108-46-3
Simazine	122-34-9
Sodium acetate	127-09-3
Sodium formate	141-53-7
Strychnine	57-24-9
Succinic acid	110-15-6
Succinimide	123-56-8
Sulfanilic acid	121-47-1
Terephthalic acid	100-21-0
Tetraethyldithiopyrophosphate	3689-24-5
Tetraethylenepentamine	112-57-2
Thiofanox	39196-18-4
Thiosemicarbazide	79-19-6
2,4-Toluenediamine	95-80-7
2,6-Toluenediamine	823-40-5
3,4-Toluenediamine	496-72-0
2,4-Toluene diisocyanate	584-84-9
p-Toluic acid	99-94-5
m-Toluidine	108-44-1
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1

Triethanolamine	102-71-6
Triethylene glycol dimethyl ether	
Tripropylene glycol	24800-44-0
Warfarin	81-81-2
3,4-Xylenol (3,4-dimethylphenol)	95-65-8

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(Source: Amended at 32 Ill. Reg. _____, effective _____)