

EXEMPT

JCAR350724-0805228r01

EXEMPT

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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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 313 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
 314 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].
 315
 316 SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in
 317 R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136,
 318 effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986;
 319 amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill.
 320 Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August
 321 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in
 322 R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458,
 323 effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13,
 324 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at
 325 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654,
 326 effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991;
 327 amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.
 328 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26,
 329 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-
 330 16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487,
 331 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994;
 332 amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill.
 333 Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636,
 334 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998;
 335 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended
 336 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at
 337 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective
 338 January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited
 339 correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26
 340 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective
 341 February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in
 342 R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill.
 343 Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893,

344 effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. _____, effective
345 _____.

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347 SUBPART B: GENERAL FACILITY STANDARDS

348
349 **Section 724.115 General Inspection Requirements**

- 350
351 a) The owner or operator must conduct inspections often enough to identify
352 problems in time to correct them before they harm human health or the
353 environment. The owner or operator must inspect the facility for malfunctions
354 and deterioration, operator errors, and discharges that may be causing or may lead
355 to either of the following:
356
- 357 1) Release of hazardous waste constituents to the environment; or
 - 358 2) A threat to human health.
- 359
360 b) Inspection schedule.
- 361 1) The owner or operator must develop and follow a written schedule for
362 inspecting monitoring equipment, safety and emergency equipment,
363 security devices, and operating and structural equipment (such as dikes
364 and sump pumps) that are important to preventing, detecting, or
365 responding to environmental or human health hazards.
366
 - 367 2) The owner or operator must keep this schedule at the facility.
368
 - 369 3) The schedule must identify the types of problems (e.g., malfunctions or
370 deterioration) that are to be looked for during the inspection (e.g.,
371 inoperative sump pump, leaking fitting, eroding dike, etc.).
372
 - 373 4) The frequency of inspection may vary for the items on the schedule.
374 However, the frequency should be based on the rate of deterioration of the
375 equipment and the probability of an environmental or human health
376 incident if the deterioration, malfunction, or any-operator error goes
377 undetected between inspections. Areas subject to spills, such as loading
378 and unloading areas, must be inspected daily when in use, except for the
379 owner or operator of a Performance Track member facility, which must
380 inspect at least once each month after approval by the Agency, as
381 described in subsection (b)(5) of this Section. At a minimum, the
382 inspection schedule must include the items and frequencies called for in
383 Sections 724.274, 724.293, 724.295, 724.326, 724.354, 724.378, 724.403,
384 724.447, 724.702, 724.933, 724.952, 724.953, 724.958, and 724.983
385
386

387 through 724.990, where applicable.
388

389 BOARD NOTE: 35 Ill. Adm. Code 703 requires the inspection schedule
390 to be submitted with Part B of the permit application. The Agency must
391 evaluate the schedule along with the rest of the application to ensure that it
392 adequately protects human health and the environment. As part of this
393 review, the Agency may modify or amend the schedule as may be
394 necessary.
395

396 5) The owner or operator of a Performance Track member facility that
397 chooses to reduce its inspection frequency must fulfill the following
398 requirements:
399

400 A) It must submit a request for a Class I permit modification with
401 prior approval to the Agency. The modification request must
402 identify its facility as a member of the National Environmental
403 Performance Track Program, and it must identify the management
404 units for reduced inspections and the proposed frequency of
405 inspections. The modification request must also specify, in
406 writing, that the reduced inspection frequency will apply for as
407 long as its facility is a Performance Track member facility, and that
408 within seven calendar days of ceasing to be a Performance Track
409 member, the owner or operator will revert to the non-Performance
410 Track inspection frequency, as provided in subsection (b)(4) of this
411 Section. Inspections pursuant to this subsection (b)(5) must be
412 conducted at least once each month.
413

414 B) Within 60 days, the Agency must notify the owner or operator of
415 the Performance Track member facility, in writing, if the request
416 submitted pursuant to subsection (b)(5)(A) of this Section is
417 approved, denied, or if an extension to the 60-day deadline is
418 needed. This notice must be placed in the facility's operating
419 record. The owner or operator of the Performance Track member
420 facility should consider the application approved if the Agency
421 does not either deny the application or notify the owner or operator
422 of the Performance Track member facility of an extension to the
423 60-day deadline. In these situations, the owner or operator of the
424 Performance Track member facility must adhere to the revised
425 inspection schedule outlined in its request for a Class 1 permit
426 modification and keep a copy of the application in the facility's
427 operating record.
428

429 C) Any owner or operator of a Performance Track member facility

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

- c) The owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule which 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 _____)

Section 724.116 Personnel Training

- a) The 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.

BOARD NOTE: 35 Ill. Adm. Code 703 requires that owners and operators submit with Part B of the RCRA permit application, an outline of the training program used (or to be used) at the facility and a brief description of how the training program is designed to meet actual jobs tasks.

- 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.

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- 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, 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 have receive emergency response training pursuant to the federal Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.120(p)(8) and (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.
- b) Facility personnel must successfully complete the program required in subsection (a) of this Section within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of subsection (a) of this Section.
- c) Facility personnel must take part in an annual review of the initial training required in subsection (a) of this Section.
- d) The owner or operator must maintain the following documents and records at the facility:
 - 1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
 - 2) A written job description for each position listed under subsection (d)(1)

516 of this Section. This description may be consistent in its degree of
517 specificity with descriptions for other similar positions in the same
518 company location or bargaining unit, but must include the requisite skill,
519 education or other qualifications, and duties of employees assigned to each
520 position;

521
522 3) A written description of the type and amount of both introductory and
523 continuing training that will be given to each person filling a position
524 listed under subsection (d)(1) of this Section;

525
526 4) Records that document that the training or job experience required under
527 subsections (a), (b), and (c) of this Section has been given to, and
528 completed by, facility personnel.

529
530 e) Training records on current personnel must be kept until closure of the facility;
531 training records on former employees must be kept for at least three years from
532 the date the employee last worked at the facility. Personnel training records may
533 accompany personnel transferred within the same company.

534
535 (Source: Amended at 32 Ill. Reg. _____, effective _____)
536

537 **Section 724.118 Location Standards**

538
539 a) Seismic considerations.

540
541 1) Portions of new facilities where treatment, storage or disposal of
542 hazardous waste will be conducted must not be located within 61 meters
543 (200 feet) of a fault that has had displacement in Holocene time.

544
545 2) As used in subsection (a)(1) of this Section:

546
547 A) "Fault" means a fracture along which rocks on one side have been
548 displaced with respect to those on the other side.

549
550 B) "Displacement" means the relative movement of any two sides of a
551 fault measured in any direction.

552
553 C) "Holocene" means the most recent epoch of the
554 Quaternary ~~Quaternary~~ period, extending from the end of the
555 Pleistocene to the present.

556
557 BOARD NOTE: Procedures for demonstrating compliance with this
558 standard in Part B of the permit application are specified in 35 Ill. Adm.

Code 703.182. Facilities that are located in political jurisdictions other than those listed in appendix VI to 40 CFR 264 (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), incorporated by reference in 35 Ill. Adm. Code 720.111(b), are assumed to be in compliance with this requirement.

b) Floodplains.

1) A facility located in a 100-year floodplain must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can demonstrate the following to the Agency's satisfaction:

A) That procedures are in effect that will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters; or

B) For existing surface impoundments, waste piles, land treatment units, landfills and miscellaneous units, that no adverse effect on human health or the environment will result if washout occurs, considering the following:

i) The volume and physical and chemical characteristics of the waste in the facility;

ii) The concentration of hazardous constituents that would potentially affect surface waters as a result of washout;

iii) The impact of such concentrations on the current or potential uses of and water quality standards established for the affected surface waters; and

iv) The impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year floodplain that could result from washout;

2) As used in subsection (b)(1) of this Section:

A) "100-year floodplain" means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

B) "Washout" means the movement of hazardous waste from the

602 active portion of the facility as a result of flooding.

- 603
- 604 C) "100-year flood" means a flood that has a one percent chance of
- 605 being equalled or exceeded in any given year.
- 606

607 BOARD NOTE: Requirements pertaining to other federal laws that affect
 608 the location and permitting of facilities are found in 40 CFR 270.3. For
 609 details relative to these laws, see EPA's manual for SEA (special
 610 environmental area) requirements for hazardous waste facility permits.
 611 Though EPA is responsible for complying with these requirements,
 612 applicants are advised to consider them in planning the location of a
 613 facility to help prevent subsequent project delays. Facilities may be
 614 required to obtain from the Illinois Department of Transportation on a
 615 permit or certification that a facility is flood-proofed.

- 616
- 617 c) Salt dome formations, salt bed formations, underground mines and caves. The
- 618 placement of any non-containerized or bulk liquid hazardous waste in any salt
- 619 dome formation, salt bed formation, underground cave or mine is prohibited.
- 620

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

622
623 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

624
625 **Section 724.152 Content of Contingency Plan**

- 626
- 627 a) The contingency plan must describe the actions facility personnel must take to
- 628 comply with Sections 724.151 and 724.156 in response to fires, explosions, or any
- 629 unplanned sudden or non-sudden release of hazardous waste or hazardous waste
- 630 constituents to air, soil, or surface water at the facility.
- 631
- 632 b) If the owner or operator has already prepared a Spill Prevention Control and
- 633 Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or 300, or
- 634 some other emergency or contingency plan, the owner or operator need only
- 635 amend that plan to incorporate hazardous waste management provisions that are
- 636 sufficient to comply with the requirements of this Part. The owner or operator
- 637 may develop one contingency plan that meets all regulatory requirements.
- 638 USEPA has recommended that the plan be based on the National Response
- 639 Team's Integrated Contingency Plan Guidance (One Plan). When modifications
- 640 are made to non-RCRA provisions in an integrated contingency plan, the changes
- 641 do not trigger the need for a RCRA permit modification.
- 642

643 BOARD NOTE: The federal One Plan guidance appeared in the Federal Register
 644 at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103

645 (June 19, 1996). USEPA, Office of Solid Waste and Emergency Response,
646 Chemical Emergency Preparedness and Prevention Office, has made these
647 documents available on-line for examination and download at
648 yoosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm.
649

- 650 c) The plan must describe arrangements agreed to by local police departments, fire
651 departments, hospitals, contractors, and state and local emergency response teams
652 to coordinate emergency services pursuant to Section 724.137.
653
- 654 d) The plan must list names, addresses, and phone numbers (office and home) of all
655 persons qualified to act as emergency coordinator (see Section 724.155), and this
656 list must be kept up to date. Where more than one person is listed, one must be
657 named as primary emergency coordinator and others must be listed in the order in
658 which they will assume responsibility as alternates. For new facilities, this
659 information must be supplied to the Agency at the time of certification, rather
660 than at the time of permit application.
661
- 662 e) The plan must include a list of all emergency equipment at the facility (such as
663 fire extinguishing systems, spill control equipment, communications and alarm
664 systems (internal and external), and decontamination equipment), where this
665 equipment is required. This list must be kept up to date. In addition, the plan
666 must include the location and a physical description of each item on the list and a
667 brief outline of its capabilities.
668
- 669 f) The plan must include an evacuation plan for facility personnel where there is a
670 possibility that evacuation could be necessary. This plan must describe signals to
671 be used to begin evacuation, evacuation routes and alternative evacuation routes
672 (in cases where the primary routes could be blocked by releases of hazardous
673 waste or fires).
674

675 (Source: Amended at 32 Ill. Reg. _____, effective _____)
676

677 **Section 724.156 Emergency Procedures**
678

- 679 a) Whenever there is an imminent or actual emergency situation, the emergency
680 coordinator (or the designee when the emergency coordinator is on call) must
681 immediately do the following:
682
 - 683 1) He or she must activate internal facility alarms or communication systems,
684 where applicable, to notify all facility personnel; and
 - 685 2) He or she must notify appropriate State or local agencies with designated
686 response roles if their help is needed.
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- b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.
 - c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions).
 - d) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health or the environment outside the facility, the emergency coordinator must report the findings as follows:
 - 1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and
 - 2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area (in the applicable regional contingency plan pursuant to federal 40 CFR 300) or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following:
 - A) The name and telephone number of the reporter;
 - B) The name and address of the facility;
 - C) The time and type of incident (e.g., release, fire);
 - D) The name and quantity of materials involved, to the extent known;
 - E) The extent of injuries, if any; and
 - F) The possible hazards to human health or the environment outside the facility.
 - e) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur,

731 recur, or spread to other hazardous waste at the facility. These measures must
732 include, where applicable, stopping processes and operations, collecting and
733 containing release waste, and removing or isolating containers.

734
735 f) If the facility stops operations in response to a fire, explosion, or release, the
736 emergency coordinator must monitor for leaks, pressure buildup, gas generation,
737 or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

738
739 g) Immediately after an emergency, the emergency coordinator must provide for
740 treating, storing, or disposing of recovered waste, contaminated soil or surface
741 water, or any other material that results from a release, fire, or explosion at the
742 facility.

743
744 BOARD NOTE: Unless the owner or operator can demonstrate, in accordance
745 with 35 Ill. Adm. Code 721.103(d) or (e), that the recovered material is not a
746 hazardous waste, the owner or operator becomes a generator of hazardous waste
747 and must manage it in accordance with all applicable requirements of 35 Ill. Adm.
748 Code 722, 723, and 724.

749
750 h) The emergency coordinator must ensure that the following is true in the affected
751 areas of the facility:

- 752
- 753 1) No waste that may be incompatible with the released material is treated,
754 stored, or disposed of until cleanup procedures are completed; and
 - 755 2) All emergency equipment listed in the contingency plan is cleaned and fit
756 for its intended use before operations are resumed.

757
758
759 ~~i) The owner or operator must notify the Agency and appropriate state and local~~
760 ~~authorities that the facility is in compliance with subsection (h) of this Section~~
761 ~~before operations are resumed in the affected areas of the facility.~~

762
763 ij) The owner or operator must note in the operating record the time, date, and details
764 of any incident that requires implementing the contingency plan. Within 15 days
765 after the incident, the owner or operator must submit a written report on the
766 incident to the Agency. The report must include the following:

- 767
- 768 1) The name, address, and telephone number of the owner or operator;
 - 769 2) The name, address, and telephone number of the facility;
 - 770 3) The date, time, and type of incident (e.g., fire, explosion);
- 771
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773

- 774 4) The name and quantity of materials involved;
- 775
- 776 5) The extent of injuries, if any;
- 777
- 778 6) An assessment of actual or potential hazards to human health or the
- 779 environment, where this is applicable; and
- 780
- 781 7) The estimated quantity and disposition of recovered material that resulted
- 782 from the incident.
- 783

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

785
786 **SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING**

787
788 **Section 724.171 Use of Manifest System**

- 789 a) Receipt of manifested hazardous waste.
- 790
- 791 1) ~~The following requirements apply until September 5, 2006: If a facility~~
- 792 ~~receives hazardous waste accompanied by a manifest, the owner or~~
- 793 ~~operator, or the owner or operator's agent, must do the following:~~
- 794
- 795 A) ~~It must sign and date each copy of the manifest to certify that the~~
- 796 ~~hazardous waste covered by the manifest was received;~~
- 797
- 798 B) ~~It must note any significant discrepancies in the manifest (as~~
- 799 ~~defined in Section 724.172(a)) on each copy of the manifest;~~
- 800
- 801
- 802 ~~BOARD NOTE: The Board does not intend that the owner or operator of~~
- 803 ~~a facility whose procedures under Section 724.113(c) include waste~~
- 804 ~~analysis must perform that analysis before signing the manifest and giving~~
- 805 ~~it to the transporter. Section 724.172(b), however, requires reporting an~~
- 806 ~~unreconciled discrepancy discovered during later analysis.~~
- 807
- 808 C) ~~It must immediately give the transporter at least one copy of the~~
- 809 ~~signed manifest;~~
- 810
- 811 D) ~~It must send a copy of the manifest to the generator and to the~~
- 812 ~~Agency within 30 days after delivery; and~~
- 813
- 814 E) ~~It must retain at the facility a copy of each manifest for at least~~
- 815 ~~three years after the date of delivery.~~
- 816

- 817 2) ~~The following requirements apply effective September 5, 2006:~~
818
819 1A) If a facility receives hazardous waste accompanied by a manifest, the
820 owner, operator, or its agent must sign and date the manifest, as indicated
821 in subsection (a)(2)(~~B~~) of this Section, to certify that the hazardous waste
822 covered by the manifest was received, that the hazardous waste was
823 received except as noted in the discrepancy space of the manifest, or that
824 the hazardous waste was rejected as noted in the manifest discrepancy
825 space.
826
827 2B) If a facility receives a hazardous waste shipment accompanied by a
828 manifest, the owner, operator, or its agent must do the following:
829
830 Ai) It must sign and date, by hand, each copy of the manifest;
831
832 Bii) It must note any discrepancies (as defined in Section 724.172(b))
833 on each copy of the manifest;
834
835 Ciii) It must immediately give the transporter at least one copy of the
836 manifest;
837
838 Div) It must send a copy of the manifest to the generator within 30 days
839 after delivery; and
840
841 E~~v~~) It must retain at the facility a copy of each manifest for at least
842 three years after the date of delivery.
843
844 3C) If a facility receives hazardous waste imported from a foreign source, the
845 receiving facility must mail a copy of the manifest to the following
846 address within 30 days after delivery: International Compliance
847 Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection
848 Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW,
849 Washington, DC 20460.
850
851 ~~BOARD NOTE: Subsection (a)(1) of this Section corresponds with 40~~
852 ~~CFR 264.71(a) (2004), effective until September 5, 2006. Subsection~~
853 ~~(a)(2) of this Section corresponds with 40 CFR 264.71(a) (2005), effective~~
854 ~~September 5, 2006.~~
855
856 b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous
857 waste that is accompanied by a shipping paper containing all the information
858 required on the manifest (excluding the USEPA identification numbers,
859 generator's certification, and signatures), the owner or operator, or the owner or

860 operator's agent, must do the following:

- 861
- 862 1) It must sign and date each copy of the manifest or shipping paper (if the
- 863 manifest has not been received) to certify that the hazardous waste
- 864 covered by the manifest or shipping paper was received;
- 865
- 866 2) It must note any significant discrepancies (as defined in Section
- 867 724.172(a)) in the manifest or shipping paper (if the manifest has not been
- 868 received) on each copy of the manifest or shipping paper;
- 869

870 BOARD NOTE: The Board does not intend that the owner or operator of

871 a facility whose procedures under Section 724.113(c) include waste

872 analysis must perform that analysis before signing the shipping paper and

873 giving it to the transporter. Section 724.172(b), however, requires

874 reporting an unreconciled discrepancy discovered during later analysis.

875

- 876 3) It must immediately give the rail or water (bulk shipment) transporter at
- 877 least one copy of the manifest or shipping paper (if the manifest has not
- 878 been received);
- 879
- 880 4) Forward copies of the manifest.

881

882 A) ~~Until September 5, 2006: The owner or operator must send a copy~~

883 ~~of the signed and dated manifest to the generator and to the~~

884 ~~Agency within 30 days after the delivery; however, if the manifest~~

885 ~~has not been received within 30 days after delivery, the owner or~~

886 ~~operator, or the owner or operator's agent, must send a copy of the~~

887 ~~shipping paper signed and dated to the generator; or~~

888

- 889 4B) ~~Effective September 5, 2006: The owner or operator must send a copy of~~
- 890 ~~the signed and dated manifest or a signed and dated copy of the shipping~~
- 891 ~~paper (if the manifest has not been received within 30 days after delivery)~~
- 892 ~~to the generator within 30 days after the delivery; and~~
- 893

894 BOARD NOTE: Section 722.123(c) requires the generator to send three

895 copies of the manifest to the facility when hazardous waste is sent by rail

896 or water (bulk shipment). ~~Subsection (b)(4)(A) is derived from 40 CFR~~

897 ~~264.74(b)(4) (2004), effective until September 5, 2006. Subsection~~

898 ~~(b)(4)(B) is derived from 40 CFR 264.74(b)(4) (2005), effective~~

899 ~~September 5, 2006.~~

900

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

903 the date of delivery.

904
 905 c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or
 906 operator of that facility must comply with the requirements of 35 Ill. Adm. Code
 907 722.

908
 909 BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to
 910 the on-site accumulation of hazardous wastes by generators. Therefore, the
 911 provisions of Section 722.134 only apply to owners or operators that are shipping
 912 hazardous waste that they generated at that facility.

913
 914 d) Within three working days after the receipt of a shipment subject to Subpart H of
 915 35 Ill. Adm. Code 722, the owner or operator of the facility must provide a copy
 916 of the tracking document bearing all required signatures to the notifier; to the
 917 Office of Enforcement and Compliance Assurance, Office of Compliance,
 918 Enforcement Planning, Targeting and Data Division (2222A), Environmental
 919 Protection Agency, 401 M St., SW, Washington, DC 20460; to the Bureau of
 920 Land, Division of Land Pollution Control, Illinois Environmental Protection
 921 Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent
 922 authorities of all other concerned countries. The original copy of the tracking
 923 document must be maintained at the facility for at least three years from the date
 924 of signature.

925
 926 (Source: Amended at 32 Ill. Reg. _____, effective _____)

927
 928 **Section 724.172 Manifest Discrepancies**

929
 930 a) The following requirements apply until September 5, 2005:

931
 932 1) Definition of a "manifest discrepancy:"

933
 934 A) A manifest discrepancy is a difference between the quantity or type
 935 of hazardous waste designated on the manifest or shipping paper,
 936 and the quantity or type of hazardous waste a facility actually
 937 receives;

938
 939 B) A significant discrepancy in quantity is as follows:

940
 941 i) For bulk waste, variations greater than 10 percent in
 942 weight; and

943
 944 ii) For batch waste, any variation in piece count, such as a
 945 discrepancy of one drum in a truckload;

- 946
- 947 ~~Ⓒ) Significant discrepancies in type are obvious differences that can~~
- 948 ~~be discovered by inspection or waste analysis, such as waste~~
- 949 ~~solvent substituted for waste acid, or toxic constituents not~~
- 950 ~~reported on the manifest or shipping paper.~~
- 951
- 952 ~~2) Upon discovering a significant discrepancy, the owner or operator must~~
- 953 ~~attempt to reconcile the discrepancy with the waste generator or~~
- 954 ~~transporter (e.g., with telephone conversations). If the discrepancy is not~~
- 955 ~~resolved within 15 days after receiving the waste, the owner or operator~~
- 956 ~~must immediately submit to the Agency a letter describing the~~
- 957 ~~discrepancy and attempts to reconcile it, and a copy of the manifest or~~
- 958 ~~shipping paper at issue.~~
- 959
- 960 b) The following requirements apply effective September 5, 2005:
- 961
- 962 a+) "Manifest discrepancies" are defined as any one of the following:
- 963
- 964 1A) Significant differences (as defined by subsection (b)(2) of this Section)
- 965 between the quantity or type of hazardous waste designated on the
- 966 manifest or shipping paper, and the quantity and type of hazardous waste a
- 967 facility actually receives;
- 968
- 969 2B) Rejected wastes, which may be a full or partial shipment of hazardous
- 970 waste that the treatment, storage, or disposal facility cannot accept; or
- 971
- 972 3C) Container residues, which are residues that exceed the quantity limits for
- 973 empty containers set forth in 35 Ill. Adm. Code 721.107(b).
- 974
- 975 b2) "Significant differences in quantity" are defined as the appropriate of the
- 976 following: for bulk waste, variations greater than 10 percent in weight; or, for
- 977 batch waste, any variation in piece count, such as a discrepancy of one drum in a
- 978 truckload. "Significant differences in type" are defined as obvious differences
- 979 that can be discovered by inspection or waste analysis, such as waste solvent
- 980 substituted for waste acid, or as toxic constituents not reported on the manifest or
- 981 shipping paper.
- 982
- 983 c3) Upon discovering a significant difference in quantity or type, the owner or
- 984 operator must attempt to reconcile the discrepancy with the waste generator or
- 985 transporter (e.g., with telephone conversations). If the discrepancy is not resolved
- 986 within 15 days after receiving the waste, the owner or operator must immediately
- 987 submit to the Agency a letter describing the discrepancy and attempts to reconcile
- 988 it, and a copy of the manifest or shipping paper at issue.

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- d4) Rejection of hazardous waste.
 - 1A) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.
 - 2B) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection ~~(e)(b)(5)~~ or ~~(f)(b)(6)~~ of this Section.
- e5) Except as provided in subsection ~~(e)(7)(b)(5)(G)~~ of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 35 Ill. Adm. 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).

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- 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/Offeror'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 the ~~following~~ instructions set forth in subsections (f)(1) through (f)(6) of this Section:

 - 1A) Write the facility'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 for Item 5.
 - 2B) Write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.
 - 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).

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~~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/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

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

~~g7)~~ If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

~~BOARD NOTE: Subsection (a) is derived from 40 CFR 264.72 (2004), effective until September 5, 2006. Subsection (b) is derived from 40 CFR 264.72 (2005), effective September 5, 2006.~~

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

Section 724.173 Operating Record

- a) The owner or operator must keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record for three years unless otherwise provided as follows~~until closure of the facility~~:

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- 1) A description and the quantity of each hazardous waste received and the ~~method or methods and date or dates~~ of its treatment, storage, or disposal at the facility, as required by Appendix A of this Part. This information must be maintained in the operating record until closure of the facility;

- 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram that ~~showsef~~ each cell or disposal area. For all facilities, this information must include cross-references to ~~specifie~~ manifest document numbers, if the waste was accompanied by a manifest. This information must be maintained in the operating record until closure of the facility;

- BOARD NOTE: See Section 724.219 for related requirements.

- 3) Records and results of waste analyses and waste determinations performed as specified in Sections 724.113, 724.117, 724.414, 724.441, 724.934, 724.963, and 724.983 and in 35 Ill. Adm. Code 728.104(a) and 728.107;

- 4) Summary reports and details of all incidents that require implementing the contingency plan, as specified in Section 724.156(j);

- 5) Records and results of inspections, as required by Section 724.115(d) (except these data need to be kept only three years);

- 6) Monitoring, testing, or analytical data and corrective action data where required by Subpart F of this Part or Sections 724.119, 724.291, 724.293, 724.295, 724.322, 724.323, 724.326, 724.352 through 724.354, 724.376, 724.378, 724.380, 724.402 through 724.404, 724.409, ~~724.447~~, 724.702, 724.934(c) through (f), 724.935, 724.963(d) through (i), 724.964, and 724.982 through 724.990. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, which must be maintained in the operating record until closure of the facility;

- 7) For off-site facilities, notices to generators as specified in Section 724.112(b);

- 8) All closure cost estimates under Section 724.242 and, for disposal facilities, all post-closure care cost estimates under Section 724.244. This information must be maintained in the operating record until closure of the facility;

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- 9) A certification by the permittee, no less often than annually: that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that the permittee generates, to the degree the permittee determines to be economically practicable, and that the proposed method of treatment, storage, or disposal is that practicable method currently available to the permittee that minimizes the present and future threat to human health and the environment;
 - 10) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition to 35 Ill. Adm. Code 728.106 or a certification under 35 Ill. Adm. Code 728.108, and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a). This information must be maintained in the operating record until closure of the facility;
 - 11) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
 - 12) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
 - 13) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108, whichever is applicable;
 - 14) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, required under 35 Ill. Adm. Code 728.108, whichever is applicable;
 - 15) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
 - 16) For an on-site storage facility, the information contained in the notice

1204 (except the manifest number), and the certification and demonstration if
1205 applicable, required of the generator or the owner or operator under 35 Ill.
1206 Adm. Code 728.107 or 728.108; and

- 1207
- 1208 17) Any records required under Section 724.101(j)(13);
- 1209
- 1210 18) Monitoring, testing, or analytical data where required by Section 724.447
1211 must be maintained in the operating record for five years; and
- 1212
- 1213 19) Certifications, as required by Section 724.296(f), must be maintained in
1214 the operating record until closure of the facility.

1215

1216 (Source: Amended at 32 Ill. Reg. _____, effective _____)

1217

1218 **Section 724.175 Annual Facility Activities Report**

1219

1220 The owner or operator must prepare and submit a single copy of an annual facility activities
1221 report to the Agency by March 1 of each year. The report form supplied by the Agency must be
1222 used for this report. The annual facility activities report must cover facility activities during the
1223 previous calendar year and must include the following information:

- 1224
- 1225 a) The USEPA identification number, name, and address of the facility;
- 1226
- 1227 b) The calendar year covered by the report;
- 1228
- 1229 c) For off-site facilities, the USEPA identification number of each hazardous waste
1230 generator from which the facility received a hazardous waste during the year; for
1231 imported shipments, the report must give the name and address of the foreign
1232 generator;
- 1233
- 1234 d) A description and the quantity of each hazardous waste the facility received
1235 during the year. For off-site facilities, this information must be listed by USEPA
1236 identification number of each generator;
- 1237
- 1238 e) The method of treatment, storage, or disposal for each hazardous waste;
- 1239
- 1240 f) This subsection (f) corresponds with 40 CFR 264.75(f), which USEPA has
1241 designated as "reserved." This statement maintains structural consistency with
1242 the USEPA rules;
- 1243
- 1244 g) The most recent closure cost estimate under Section 724.242, and, for disposal
1245 facilities, the most recent post-closure cost estimate under Section 724.244;
- 1246

- 1247 h) For generators that treat, store or dispose of hazardous waste on-site, a description
1248 of the efforts undertaken during the year to reduce the volume and toxicity of the
1249 waste generated;
- 1250
- 1251 i) For generators that treat, store or dispose of hazardous waste on-site, a description
1252 of the changes in volume and toxicity of waste actually achieved during the year
1253 in comparison to previous years, to the extent such information is available for
1254 years prior to 1984; and
- 1255
- 1256 j) The certification signed by the owner or operator of the facility or the owner or
1257 operator's authorized representative.
- 1258

1259 BOARD NOTE: Corresponding 40 CFR 264.75 requires biennial reporting. The Board has
1260 required annual reporting, since Section 20.1 of the Act [415 ILCS 5/20.1 (2006)] requires the
1261 Agency to assemble annual reports, and only annual facility activities reports will enable the
1262 Agency to fulfill this mandate.

1263
1264 (Source: Amended at 32 Ill. Reg. _____, effective _____)

1265
1266 **Section 724.176 Unmanifested Waste Report**

- 1267
- 1268 a) ~~The following requirements apply until September 5, 2005: If a facility accepts~~
1269 ~~for treatment, storage, or disposal any hazardous waste from an off-site source~~
1270 ~~without an accompanying manifest, or without an accompanying shipping paper~~
1271 ~~as described in 35 Ill. Adm. Code 723.120(e)(2), and if the waste is not excluded~~
1272 ~~from the manifest requirement by 35 Ill. Adm. Code 721.105, then the owner or~~
1273 ~~operator must prepare and submit a single copy of a report to the Agency within~~
1274 ~~15 days after receiving the waste. The unmanifested waste report must be~~
1275 ~~submitted on EPA form 8700-13B. Such report must be designated~~
1276 ~~"Unmanifested Waste Report" and include the following information:~~
 - 1277
 - 1278 1) ~~The USEPA identification number, name, and address of the facility;~~
 - 1279
 - 1280 2) ~~The date the facility received the waste;~~
 - 1281
 - 1282 3) ~~The USEPA identification number, name, and address of the generator and~~
1283 ~~the transporter, if available;~~
 - 1284
 - 1285 4) ~~A description and the quantity of each unmanifested hazardous waste and~~
1286 ~~facility received;~~
 - 1287
 - 1288 5) ~~The method of treatment, storage, or disposal for each hazardous waste;~~
 - 1289

- 1290 6) ~~The certification signed by the owner or operator of the facility or the~~
1291 ~~owner or operator's authorized representative; and~~
- 1292
- 1293 7) ~~A brief explanation of why the waste was unmanifested, if known.~~
- 1294
- 1295 ab) ~~The following requirements apply effective September 5, 2005:—If a facility~~
1296 ~~accepts for treatment, storage, or disposal any hazardous waste from an off-site~~
1297 ~~source without an accompanying manifest, or without an accompanying shipping~~
1298 ~~paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not~~
1299 ~~excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265,~~
1300 ~~then the owner or operator must prepare and submit a letter to the Agency within~~
1301 ~~15 days after receiving the waste. The unmanifested waste report must contain~~
1302 ~~the following information:~~
- 1303
- 1304 1) The USEPA identification number, name, and address of the facility;
- 1305
- 1306 2) The date the facility received the waste;
- 1307
- 1308 3) The USEPA identification number, name, and address of the generator and
1309 the transporter, if available;
- 1310
- 1311 4) A description and the quantity of each unmanifested hazardous waste the
1312 facility received;
- 1313
- 1314 5) The method of treatment, storage, or disposal for each hazardous waste;
- 1315
- 1316 6) The certification signed by the owner or operator of the facility or its
1317 authorized representative; and
- 1318
- 1319 7) A brief explanation of why the waste was unmanifested, if known.
- 1320
- 1321 b) This subsection (b) corresponds with 40 CFR 264.76(b), which USEPA has
1322 marked "reserved." This statement maintains structural consistency with the
1323 corresponding federal regulations.
- 1324

1325 BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under
1326 this Part and do not require a manifest. Where a facility receives unmanifested hazardous
1327 wastes, USEPA has suggested that the owner or operator obtain from each generator a
1328 certification that the waste qualifies for exclusion. Otherwise, USEPA has suggested that
1329 the owner or operator file an unmanifested waste report for the hazardous waste
1330 movement. Subsection (a) is derived from 40 CFR 264.76 (2004), effective until
1331 September 5, 2006. ~~Subsection (b) is derived from 40 CFR 264.76 (2005), effective~~
1332 ~~September 5, 2006.~~

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

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section 724.197 General Groundwater Monitoring Requirements

The owner or operator must comply with the following requirements for any groundwater monitoring program developed to satisfy Section 724.198, 724.199, or 724.200.

- a) The groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples from the uppermost aquifer that fulfill the following requirements:
 - 1) They represent the quality of background groundwater that has not been affected by leakage from a regulated unit. A determination of background groundwater quality may include sampling of wells that are not hydraulically upgradient from the waste management area where the following is true:
 - A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are upgradient; or
 - B) Sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells;
 - 2) They represent the quality of groundwater passing the point of compliance; and
 - 3) They allow for the detection of contamination when hazardous waste or hazardous constituents have migrated from the hazardous waste management area to the uppermost aquifer.
- b) If a facility contains more than one regulated unit, separate groundwater monitoring systems are not required for each regulated unit provided that provisions for sampling the groundwater in the uppermost aquifer will enable detection and measurement at the compliance point of hazardous constituents from the regulated units that have entered the groundwater in the uppermost aquifer.
- c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and

1376 packed with gravel or sand, where necessary, to enable collection of groundwater
 1377 samples. The annular space (i.e., the space between the bore hole and well
 1378 casing) above the sampling depth must be sealed to prevent contamination of
 1379 samples and the groundwater.

1380
 1381 d) The groundwater monitoring program must include consistent sampling and
 1382 analysis procedures that are designed to ensure monitoring results that provide a
 1383 reliable indication of groundwater quality below the waste management area. At
 1384 a minimum the program must include procedures and techniques for the
 1385 following:

- 1386
- 1387 1) Sample collection;
- 1388
- 1389 2) Sample preservation and shipment;
- 1390
- 1391 3) Analytical procedures; and
- 1392
- 1393 4) Chain of custody control.

1394
 1395 e) The groundwater monitoring program must include sampling and analytical
 1396 methods that are appropriate for groundwater sampling and that accurately
 1397 measure hazardous constituents in groundwater samples.

1398
 1399 f) The groundwater monitoring program must include a determination of the
 1400 groundwater surface elevation each time groundwater is sampled.

1401
 1402 g) In detection monitoring or where appropriate in compliance monitoring, data on
 1403 each hazardous constituent specified in the permit will be collected from
 1404 background wells and wells at the compliance points. The number and kinds of
 1405 samples collected to establish background must be appropriate for the form of
 1406 statistical test employed, following generally accepted statistical principles. The
 1407 sample size must be as large as necessary to ensure with reasonable confidence
 1408 that a contaminant release to groundwater from a facility will be detected. The
 1409 owner or operator will determine an appropriate sampling procedure and interval
 1410 for each hazardous constituent listed in the facility permit that must be specified
 1411 in the unit permit upon approval by the Agency. This sampling procedure must
 1412 fulfill the following requirements:

- 1413
- 1414 1) It may be a sequence of at least four samples, taken at an interval that
 1415 assures, to the greatest extent technically feasible, that an independent
 1416 sample is obtained, by reference to the uppermost aquifer's effective
 1417 porosity, hydraulic conductivity and hydraulic gradient, and the fate and
 1418 transport characteristics of the potential contaminants; or

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2) It may be an alternate sampling procedure proposed by the owner or operator and approved by the Agency.

h) The owner or operator must specify one of the following statistical methods to be used in evaluating groundwater monitoring data for each hazardous constituent that, upon approval by the Agency, will be specified in the unit permit. The statistical test chosen must be conducted separately for each hazardous constituent in each well. Where practical quantification limits (pqls) are used in any of the following statistical procedures to comply with subsection (i)(5) of this Section, the pql must be proposed by the owner or operator and approved by the Agency. Use of any of the following statistical methods must adequately protect human health and the environment and must comply with the performance standards outlined in subsection (i) of this Section.

- 1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.
- 2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.
- 3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.
- 4) A control chart approach that gives control limits for each constituent.
- 5) Another statistical test method submitted by the owner or operator and approved by the Agency.

i) Any statistical method chosen pursuant to subsection (h) of this Section for specification in the unit permit must comply with the following performance standards, as appropriate:

- 1) The statistical method used to evaluate groundwater monitoring data must be appropriate for the distribution of chemical parameters or hazardous

1462 constituents. If the distribution of the chemical parameters or hazardous
 1463 constituents is shown by the owner or operator to be inappropriate for a
 1464 normal theory test, then the data should be transformed or a distribution-
 1465 free theory test should be used. If the distributions for the constituents
 1466 differ, more than one statistical method may be needed.

1467
 1468 2) If an individual well comparison procedure is used to compare an
 1469 individual compliance well constituent concentration with background
 1470 constituent concentrations or a groundwater protection standard, the test
 1471 must be done at a Type I error level no less than 0.01 for each testing
 1472 period. If a multiple comparisons procedure is used, the Type I
 1473 experimentwise error rate for each testing period must be no less than
 1474 0.05; however, the Type I error of no less than 0.01 for individual well
 1475 comparisons must be maintained. This performance standard does not
 1476 apply to tolerance intervals, prediction intervals or control charts.

1477
 1478 3) If a control chart approach is used to evaluate groundwater monitoring
 1479 data, the specific type of control chart and its associated parameter value
 1480 must be proposed by the owner or operator and approved by the Agency if
 1481 the Agency finds it to adequately protect human health and the
 1482 environment.

1483
 1484 4) If a tolerance interval or a prediction interval is used to evaluate
 1485 groundwater monitoring data, the levels of confidence and, for tolerance
 1486 intervals, the percentage of the population that the interval must contain,
 1487 must be proposed by the owner or operator and approved by the Agency if
 1488 the Agency finds these parameters to adequately protect human health and
 1489 the environment. These parameters will be determined after considering
 1490 the number of samples in the background database, the data distribution,
 1491 and the range of the concentration values for each constituent of concern.

1492
 1493 5) The statistical method must account for data below the limit of detection
 1494 with one or more statistical procedures that adequately protect human
 1495 health and the environment. Any practical quantification limit (pql)
 1496 approved by the Agency pursuant to subsection (h) of this Section that is
 1497 used in the statistical method must be the lowest concentration level that
 1498 can be reliably achieved within specified limits of precision and accuracy
 1499 during routine laboratory operating conditions that are available to the
 1500 facility.

1501
 1502 6) If necessary, the statistical method must include procedures to control or
 1503 correct for seasonal and spatial variability, as well as temporal correlation
 1504 in the data.

1505
1506 j) Groundwater monitoring data collected in accordance with subsection (g) of this
1507 Section, including actual levels of constituents, must be maintained in the facility
1508 operating record. The Agency must specify in the permit when the data must be
1509 submitted for review.

1510
1511 (Source: Amended at 32 Ill. Reg. _____, effective _____)
1512

1513 **Section 724.198 Detection Monitoring Program**
1514

1515 An owner or operator required to establish a detection monitoring program under this Subpart F
1516 must, at a minimum, discharge the following responsibilities:

1517 a) The owner or operator must monitor for indicator parameters (e.g., specific
1518 conductance, total organic carbon, or total organic halogen), waste constituents or
1519 reaction products that provide a reliable indication of the presence of hazardous
1520 constituents in groundwater. The Agency must specify the parameters or
1521 constituents to be monitored in the facility permit, after considering the following
1522 factors:
1523

1524
1525 1) The types, quantities, and concentrations of constituents in wastes
1526 managed at the regulated unit;

1527
1528 2) The mobility, stability, and persistence of waste constituents or their
1529 reaction products in the unsaturated zone beneath the waste management
1530 area;

1531
1532 3) The detectability of indicator parameters, waste constituents, and reaction
1533 products in groundwater; and

1534
1535 4) The concentrations or values and coefficients of variation of proposed
1536 monitoring parameters or constituents in the groundwater background.

1537
1538 b) The owner or operator must install a groundwater monitoring system at the
1539 compliance point as specified under Section 724.195. The groundwater
1540 monitoring system must comply with Sections 724.197(a)(2), 724.197(b), and
1541 724.197(c).
1542

1543 c) The owner or operator must conduct a groundwater monitoring program for each
1544 chemical parameter and hazardous constituent specified in the permit pursuant to
1545 subsection (a) of this Section in accordance with Section 724.197(g). The owner
1546 or operator must maintain a record of groundwater analytical data as measured
1547 and in a form necessary for the determination of statistical significance under

- 1548 Section 724.197(h).
 1549
 1550 d) The Agency must specify the frequencies for collecting samples and conducting
 1551 statistical tests to determine whether there is statistically significant evidence of
 1552 contamination for any parameter or hazardous constituent specified in the permit
 1553 conditions under subsection (a) of this Section in accordance with Section
 1554 724.197(g). ~~A sequence of at least four samples from each well (background and~~
 1555 ~~compliance wells) must be collected at least semi-annually during detection~~
 1556 ~~monitoring.~~
 1557
 1558 e) The owner or operator must determine the groundwater flow rate and direction in
 1559 the uppermost aquifer at least annually.
 1560
 1561 f) The owner or operator must determine whether there is statistically significant
 1562 evidence of contamination for any chemical parameter or hazardous constituent
 1563 specified in the permit pursuant to subsection (a) of this Section at a frequency
 1564 specified under subsection (d) of this Section.
 1565
 1566 1) In determining whether statistically significant evidence of contamination
 1567 exists, the owner or operator must use the methods specified in the permit
 1568 under Section 724.197(h). These methods must compare data collected at
 1569 the compliance points to the background groundwater quality data.
 1570
 1571 2) The owner or operator must determine whether there is statistically
 1572 significant evidence of contamination at each monitoring well at the
 1573 compliance point within a reasonable period of time after completion of
 1574 sampling. The Agency must specify in the facility permit what period of
 1575 time is reasonable, after considering the complexity of the statistical test
 1576 and the availability of laboratory facilities to perform the analysis of
 1577 groundwater samples.
 1578
 1579 g) If the owner or operator determines pursuant to subsection (f) of this Section that
 1580 there is statistically significant evidence of contamination for chemical parameters
 1581 or hazardous constituents specified pursuant to subsection (a) of this Section at
 1582 any monitoring well at the compliance point, the owner or operator must do the
 1583 following:
 1584
 1585 1) Notify the Agency of this finding in writing within seven days. The
 1586 notification must indicate what chemical parameters or hazardous
 1587 constituents have shown statistically significant evidence of
 1588 contamination.
 1589
 1590 2) Immediately sample the groundwater in all monitoring wells and

1591 determine whether constituents in the list of Appendix I of this Part are
 1592 present, and if so, in what concentration. However, the Agency must
 1593 allow sampling for a site-specific subset of constituents from the
 1594 Appendix I list of this Part and for other representative or related waste
 1595 constituents if it determines that sampling for that site-specific subset of
 1596 contaminants and other constituents is more economical and equally
 1597 effective for determining whether groundwater contamination has
 1598 occurred.
 1599

1600 3) For any compounds in Appendix I of this Part found in the analysis
 1601 pursuant to subsection (g)(2) of this Section, the owner or operator may
 1602 resample within one month or at an alternative site-specific schedule
 1603 approved by the Agency and repeat the analysis for those compounds
 1604 detected. If the results of the second analysis confirm the initial results,
 1605 then these constituents will form the basis for compliance monitoring. If
 1606 the owner or operator does not resample for the compounds set forth
 1607 in found pursuant to subsection (g)(2) of this Section, the hazardous
 1608 constituents found during this initial Appendix I analysis will form the
 1609 basis for compliance monitoring.
 1610

1611 4) Within 90 days, submit to the Agency an application for a permit
 1612 modification to establish a compliance monitoring program meeting the
 1613 requirements of Section 724.199. The application must include the
 1614 following information:
 1615

1616 A) An identification of the concentration of any constituent in
 1617 Appendix I of this Part detected in the groundwater at each
 1618 monitoring well at the compliance point;
 1619

1620 B) Any proposed changes to the groundwater monitoring system at
 1621 the facility necessary to meet the requirements of Section 724.199;
 1622

1623 C) Any proposed additions or changes to the monitoring frequency,
 1624 sampling and analysis procedures or methods, or statistical
 1625 methods used at the facility necessary to meet the requirements of
 1626 Section 724.199;
 1627

1628 D) For each hazardous constituent detected at the compliance point, a
 1629 proposed concentration limit under Section 724.194(a)(1) or (a)(2),
 1630 or a notice of intent to seek an alternate concentration limit under
 1631 Section 724.194(b).
 1632

1633 5) Within 180 days, submit the following to the Agency:

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- A) All data necessary to justify an alternate concentration limit sought under Section 724.194(b); and
 - B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of Section 724.200, unless the following is true:
 - i) All hazardous constituents identified under subsection (g)(2) of this Section are listed in Table 1 of Section 724.194 and their concentrations do not exceed the respective values given in that table; or
 - ii) The owner or operator has sought an alternate concentration limit under Section 724.194(b) for every hazardous constituent identified under subsection (g)(2) of this Section.
 - 6) If the owner or operator determines, pursuant to subsection (f) of this Section, that there is a statistically significant difference for chemical parameters or hazardous constituents specified pursuant to subsection (a) of this Section at any monitoring well at the compliance point, the owner or operator may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis or statistical evaluation, or natural variation in the groundwater. The owner or operator may make a demonstration under this subsection (g) in addition to, or in lieu of, submitting a permit modification application under subsection (g)(4) of this Section; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in subsection (g)(4) of this Section unless the demonstration made under this subsection (g) successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis or evaluation. In making a demonstration under this subsection (g), the owner or operator must do the following:
 - A) Notify the Agency in writing, within seven days of determining statistically significant evidence of contamination at the compliance point, that the owner or operator intends to make a demonstration under this subsection (g);
 - B) Within 90 days, submit a report to the Agency that demonstrates that a source other than a regulated unit caused the contamination

1677 or that the contamination resulted from error in sampling, analysis,
1678 or evaluation;

1679
1680 C) Within 90 days, submit to the Agency an application for a permit
1681 modification to make any appropriate changes to the detection
1682 monitoring program facility; and

1683
1684 D) Continue to monitor in accordance with the detection monitoring
1685 program established under this Section.

1686
1687 h) If the owner or operator determines that the detection monitoring program no
1688 longer satisfies the requirements of this Section, the owner or operator must,
1689 within 90 days, submit an application for a permit modification to make any
1690 appropriate changes to the program.

1691
1692 (Source: Amended at 32 Ill. Reg. _____, effective _____)

1693

1694 **Section 724.199 Compliance Monitoring Program**

1695

1696 An owner or operator required to establish a compliance monitoring program under this Subpart
1697 F must, at a minimum, discharge the following responsibilities:

1698

1699 a) The owner or operator must monitor the groundwater to determine whether
1700 regulated units are in compliance with the groundwater protection standard under
1701 Section 724.192. The Agency must specify the groundwater protection standard
1702 in the facility permit, including the following:

1703

1704 1) A list of the hazardous constituents identified under Section 724.193;

1705

1706 2) Concentration limits under Section 724.194 for each of those hazardous
1707 constituents;

1708

1709 3) The compliance point under Section 724.195; and

1710

1711 4) The compliance period under Section 724.196.

1712

1713 b) The owner or operator must install a groundwater monitoring system at the
1714 compliance point as specified under Section 724.195. The groundwater
1715 monitoring system must comply with Section 724.197(a)(2), 724.197(b), and
1716 724.197(c).

1717

1718 c) The Agency must specify the sampling procedures and statistical methods
1719 appropriate for the constituents and facility, consistent with Section 724.197(g)

- 1720 and (h).
1721
1722 1) The owner or operator must conduct a sampling program for each
1723 chemical parameter or hazardous constituent in accordance with Section
1724 724.297(g).
1725
1726 2) The owner or operator must record groundwater analytical data as
1727 measured and in a form necessary for the determination of statistical
1728 significance under Section 724.197(h) for the compliance period of the
1729 facility.
1730
1731 d) The owner or operator must determine whether there is statistically significant
1732 evidence of increased contamination for any chemical parameter or hazardous
1733 constituent specified in the permit, pursuant to subsection (a) of this Section, at a
1734 frequency specified under subsection (f) of this Section.
1735
1736 1) In determining whether statistically significant evidence of increased
1737 contamination exists, the owner or operator must use the methods
1738 specified in the permit under Section 724.197(h). The methods must
1739 compare data collected at the compliance points to a concentration limit
1740 developed in accordance with Section 724.194.
1741
1742 2) The owner or operator must determine whether there is statistically
1743 significant evidence of increased contamination at each monitoring well at
1744 the compliance point within a reasonable time period after completion of
1745 the sampling. The Agency must specify that time period in the facility
1746 permit, after considering the complexity of the statistical test and the
1747 availability of laboratory facilities to perform the analysis of groundwater
1748 samples.
1749
1750 e) The owner or operator must determine the groundwater flow rate and direction in
1751 the uppermost aquifer at least annually.
1752
1753 f) The Agency must specify the frequencies for collecting samples and conducting
1754 statistical tests to determine statistically significant evidence of increased
1755 contamination in accordance with Section 724.197(g). ~~A sequence of at least four~~
1756 ~~samples from each well (background and compliance wells) must be collected at~~
1757 ~~least semi-annually during the compliance period for the facility.~~
1758
1759 g) The owner or operator must annually analyze samples from all monitoring wells at
1760 the compliance point for all constituents contained in Appendix I of this Part at
1761 least annually to determine whether additional hazardous constituents from
1762 Appendix I of this Part, which could possibly be present but are not on the

1763 detection monitoring list in the permit, are actually present in the uppermost
1764 aquifer and, if so, at what concentration, pursuant to procedures in Section
1765 724.198(f). To accomplish this, the owner or operator must consult with the
1766 Agency to determine the following on a case-by-case basis: which sample
1767 collection event during the year will involve enhanced sampling; the number of
1768 monitoring wells at the compliance point to undergo enhanced sampling; the
1769 number of samples to be collected from each of these monitoring wells; and, the
1770 specific constituents from Appendix I of this Part for which these samples must
1771 be analyzed. If the enhanced sampling event indicates that Appendix I
1772 constituents are present in the ground water that are not already identified in the
1773 permit as monitoring constituents, the owner or operator may resample within one
1774 month or at an alternative site-specific schedule approved by the Agency, and
1775 repeat the analysis. If the second analysis confirms the presence of new
1776 constituents, the owner or operator must report the concentration of these
1777 additional constituents to the Agency within seven days after the completion of
1778 the second analysis and add them to the monitoring list. If the owner or operator
1779 chooses not to resample, then it must report the concentrations of these additional
1780 constituents to the Agency within seven days after completion of the initial
1781 analysis, and add them to the monitoring list.~~If the owner or operator finds~~
1782 ~~constituents of Appendix I of this Part in the groundwater that are not already~~
1783 ~~identified as monitoring constituents, the owner or operator may resample within~~
1784 ~~one month and repeat the Appendix I analysis. If the second analysis confirms~~
1785 ~~the presence of new constituents, the owner or operator must report the~~
1786 ~~concentration of these additional constituents to the Agency within seven days~~
1787 ~~after the completion of the second analysis, and add them to the monitoring list.~~
1788 ~~If the owner or operator chooses not to resample, then the owner or operator must~~
1789 ~~report the concentrations of these additional constituents to the Agency within~~
1790 ~~seven days after completion of the initial analysis, and add them to the monitoring~~
1791 ~~list.~~

- 1792
- 1793 h) If the owner or operator determines, pursuant to subsection (d) of this Section that
- 1794 any concentration limits under Section 724.194 are being exceeded at any
- 1795 monitoring well at the point of compliance, the owner or operator must do the
- 1796 following:
- 1797
- 1798 1) Notify the Agency of this finding in writing within seven days. The
 - 1799 notification must indicate what concentration limits have been exceeded.
 - 1800
 - 1801 2) Submit to the Agency an application for a permit modification to establish
 - 1802 a corrective action program meeting the requirements of Section 724.200
 - 1803 within 180 days, or within 90 days if an engineering feasibility study has
 - 1804 been previously submitted to the Agency under Section
 - 1805 724.198(g)(5)~~724.198(h)(5)~~. The application must at a minimum include

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the following information:

- A) A detailed description of corrective actions that will achieve compliance with the groundwater protection standard specified in the permit under subsection (a) of this Section; and
 - B) A plan for a groundwater monitoring program that will demonstrate the effectiveness of the corrective action. Such a groundwater monitoring program may be based on a compliance monitoring program developed to meet the requirements of this Section.
- i) If the owner or operator determines, pursuant to subsection (d) of this Section, that the groundwater concentration limits under this Section are being exceeded at any monitoring well at the point of compliance, the owner or operator may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation, or natural variation in groundwater. In making a demonstration under this subsection (i), the owner or operator must do the following:
- 1) Notify the Agency in writing within seven days that it intends to make a demonstration under this subsection (i);
 - 2) Within 90 days, submit a report to the Agency that demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis or evaluation;
 - 3) Within 90 days, submit to the Agency an application for a permit modification to make any appropriate changes to the compliance monitoring program at the facility; and
 - 4) Continue to monitor in accord with the compliance monitoring program established under this Section.
- j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this Section, the owner or operator must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

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

1849 **Section 724.200 Corrective Action Program**

1850
 1851 An owner or operator required to establish a corrective action program pursuant to this Subpart F
 1852 must, at a minimum, discharge the following responsibilities:

- 1853
 1854 a) The owner or operator must take corrective action to ensure that regulated units
 1855 are in compliance with the groundwater protection standard pursuant to Section
 1856 724.192. The Agency must specify the groundwater protection standard in the
 1857 facility permit, including the following:
 1858
- 1859 1) A list of the hazardous constituents identified pursuant to Section 724.193;
 - 1860
 - 1861 2) Concentration limits pursuant to Section 724.194 for each of those
 1862 hazardous constituents;
 - 1863
 - 1864 3) The compliance point pursuant to Section 724.195; and
 - 1865
 - 1866 4) The compliance period pursuant to Section 724.196.
 - 1867
- 1868 b) The owner or operator must implement a corrective action program that prevents
 1869 hazardous constituents from exceeding their respective concentration limits at the
 1870 compliance point by removing the hazardous waste constituents or treating them
 1871 in place. The permit will specify the specific measures that must be taken.
 1872
- 1873 c) The owner or operator must begin corrective action within a reasonable time
 1874 period after the groundwater protection standard is exceeded. The Agency must
 1875 specify that time period in the facility permit. If a facility permit includes a
 1876 corrective action program in addition to a compliance monitoring program, the
 1877 permit will specify when the corrective action must begin and such a requirement
 1878 will operate in lieu of Section 724.199(i)(2).
 1879
- 1880 d) In conjunction with a corrective action program, the owner or operator must
 1881 establish and implement a groundwater monitoring program to demonstrate the
 1882 effectiveness of the corrective action program. Such a monitoring program may
 1883 be based on the requirements for a compliance monitoring program pursuant to
 1884 Section 724.199 and must be as effective as that program in determining
 1885 compliance with the groundwater protection standard pursuant to Section 724.192
 1886 and in determining the success of a corrective action program pursuant to
 1887 subsection (e) of this Section where appropriate.
 1888
- 1889 e) In addition to the other requirements of this Section, the owner or operator must
 1890 conduct a corrective action program to remove or treat in place any hazardous
 1891 constituents pursuant to Section 724.193 that exceed concentration limits pursuant

1892 to Section 724.194 in groundwater, as follows:
1893

1894 1) At the following locations:
1895

1896 A) Between the compliance point pursuant to Section 724.195 and the
1897 downgradient facility property boundary; and
1898

1899 B) Beyond the facility boundary, where necessary to adequately
1900 protect human health and the environment, unless the owner or
1901 operator demonstrates to the Agency that, despite the owner's or
1902 operator's best efforts, the owner or operator was unable to obtain
1903 the necessary permission to undertake such action. The owner and
1904 operator are not relieved of all responsibility to clean up a release
1905 that has migrated beyond the facility boundary where off-site
1906 access is denied. On-site measures to address such releases will be
1907 determined on a case-by-case basis.
1908

1909 2) The permit will specify the following measures to be taken:
1910

1911 A) Corrective action measures pursuant to this subsection (e) must be
1912 initiated and completed within a reasonable period of time
1913 considering the extent of contamination.
1914

1915 B) Corrective action measures pursuant to this subsection (e) may be
1916 terminated once the concentration of hazardous constituents
1917 pursuant to Section 724.193 is reduced to levels below their
1918 respective concentration limits pursuant to Section 724.194.
1919

1920 f) The owner or operator must continue corrective action measures during the
1921 compliance period to the extent necessary to ensure that the groundwater
1922 protection standard is not exceeded. If the owner or operator is conducting
1923 corrective action at the end of the compliance period, the owner or operator must
1924 continue that corrective action for as long as necessary to achieve compliance
1925 with the groundwater protection standard. The owner or operator may terminate
1926 corrective action measures taken beyond the period equal to the active life of the
1927 waste management area (including the closure period) if the owner or operator
1928 can demonstrate, based on data from the groundwater monitoring program
1929 pursuant to subsection (d) of this Section, that the groundwater protection
1930 standard of Section 724.192 has not been exceeded for a period of three
1931 consecutive years.
1932

1933 g) The owner or operator must report in writing to the Agency on the effectiveness
1934 of the corrective action program. The owner or operator must submit these

1935 reports ~~annually~~ semi-annually.

1936
1937 h) If the owner or operator determines that the corrective action program no longer
1938 satisfies this Section, the owner or operator must, within 90 days, submit an
1939 application for a permit modification to make any appropriate changes to the
1940 program.

1941
1942 (Source: Amended at 32 Ill. Reg. _____, effective _____)

1943
1944 SUBPART G: CLOSURE AND POST-CLOSURE CARE

1945
1946 **Section 724.213 Closure; Time Allowed for Closure**

1947
1948 a) All permits must require that, within 90 days after receiving the final volume of
1949 hazardous waste, or the final volume of non-hazardous wastes, if the owner or
1950 operator complies with all the applicable requirements of subsections (d) and (e)
1951 of this Section, at a hazardous waste management unit or facility, the owner or
1952 operator treat, remove from the unit or facility, or dispose of on-site, all hazardous
1953 wastes in accordance with the approved closure plan, unless the owner or operator
1954 makes the following demonstration by way of permit application or modification
1955 application. The Agency must approve a longer period if the owner or operator
1956 demonstrates that the following is true:

1957
1958 1) Either of the following:

1959
1960 A) The activities required to comply with this subsection (a) will, of
1961 necessity, take longer than 90 days to complete; or

1962
1963 B) All of the following is true:

1964
1965 i) The hazardous waste management unit or facility has the
1966 capacity to receive additional hazardous wastes, or has the
1967 capacity to receive non-hazardous wastes, if the owner or
1968 operator complies with subsections (d) and (e) of this
1969 Section;

1970
1971 ii) There is a reasonable likelihood that the owner or operator
1972 or another person will recommence operation of the
1973 hazardous waste management unit or facility within one
1974 year; and

1975
1976 iii) Closure of the hazardous waste management unit or facility
1977 would be incompatible with continued operation of the site;

and

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

- b) All permits must require that the owner or operator complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes, if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this Section, at the hazardous waste management unit or facility, unless the owner or operator makes the following demonstration by way of permit application or modification application. The Agency must approve a longer closure period if the owner or operator demonstrates as follows:
 - 1) Either of the following:
 - A) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or
 - B) All of the following:
 - i) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes, if the owner or operator complies with subsections (d) and (e) of this Section;
 - ii) There is reasonable likelihood that the owner or operator will recommence operation of the hazardous waste management unit or facility within one year; and
 - iii) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and
 - 2) The owner and operator have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility including compliance with all applicable permit requirements.

- c) The demonstration referred to in subsections (a)(1) and (b)(1) of this Section must

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be made as follows:

- 1) The demonstration in subsection (a)(1) of this Section must be made at least 30 days prior to the expiration of the 90-day period in subsection (a) of this Section; and
 - 2) The demonstration in subsection (b)(1) of this Section must be made at least 30 days prior to the expiration of the 180-day period in subsection (b) of this Section, unless the owner or operator is otherwise subject to deadlines in subsection (d) of this Section.
- d) Continued receipt of non-hazardous waste. The Agency must permit an owner or operator to receive only non-hazardous wastes in a landfill, land treatment unit, or surface impoundment unit after the final receipt of hazardous wastes at that unit if the following is true:
- 1) The owner or operator requests a permit modification in compliance with all applicable requirements in 35 Ill. Adm. Code 702, 703, and 705, and in the permit modification request demonstrates the following:
 - A) That the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes;
 - B) That there is a reasonable likelihood that the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes;
 - C) That the non-hazardous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility pursuant to this Part;
 - D) That closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and
 - E) That the owner or operator is operating and will continue to operate in compliance with all applicable permit requirements;
 - 2) The request to modify the permit includes an amended waste analysis plan, groundwater monitoring and response program, human exposure assessment required pursuant to 35 Ill. Adm. Code 703.186, and closure and post-closure plans and updated cost estimates and demonstrations of financial assurance for closure and post-closure care, as necessary and appropriate, to reflect any changes due to the presence of hazardous

- 2064 constituents in the non-hazardous wastes, and changes in closure
2065 activities, including the expected year of closure if applicable pursuant to
2066 Section 724.212(b)(7), as a result of the receipt of non-hazardous wastes
2067 following the final receipt of hazardous wastes;
2068
- 2069 3) The request to modify the permit includes revisions, as necessary and
2070 appropriate, to affected conditions of the permit to account for the receipt
2071 of non-hazardous wastes following receipt of the final volume of
2072 hazardous wastes; and
2073
- 2074 4) The request to modify the permit and the demonstrations referred to in
2075 subsections (d)(1) and (d)(2) of this Section are submitted to the Agency
2076 no later than 120 days prior to the date on which the owner or operator of
2077 the facility receives the known final volume of hazardous wastes at the
2078 unit or no later than 90 days after the effective date of this Section,
2079 whichever is later.
2080
- 2081 e) Surface impoundments. In addition to the requirements in subsection (d) of this
2082 Section, an owner or operator of a hazardous waste surface impoundment that is
2083 not in compliance with the liner and leachate collection system requirements in
2084 Section 724.321(c), (d), or (e) must receive non-hazardous wastes only as
2085 authorized by an adjusted standard pursuant to this subsection (e).
2086
- 2087 1) The petition for adjusted standard must include the following:
2088
- 2089 A) A plan for removing hazardous wastes; and
2090
- 2091 B) A contingent corrective measures plan.
2092
- 2093 2) The removal plan must provide for the following:
2094
- 2095 A) Removing all hazardous liquids; and
2096
- 2097 B) Removing all hazardous sludges to the extent practicable without
2098 impairing the integrity of the liner or liners, if any; and
2099
- 2100 C) Removal of hazardous wastes no later than 90 days after the final
2101 receipt of hazardous wastes. The Board will allow a longer time, if
2102 the owner or operator demonstrates the following:
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- 2104 i) That the removal of hazardous wastes will, of necessity,
2105 take longer than the allotted period to complete; and
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- i) Begin to implement that corrective measures plan in less than one year; or
 - ii) Cease the receipt of wastes until the plan has been implemented.
- B) The owner or operator must implement the contingent corrective measures plan.
- C) The owner or operator may continue to receive wastes at the unit if authorized by the approved contingent measures plan.
- 6) ~~Annual~~Semi-annual report. During the period of corrective action, the owner or operator must provide ~~annual~~semi-annual reports to the Agency that do the following:
 - A) ~~They must describe~~Describe the progress of the corrective action program;
 - B) ~~They must compile~~Compile all groundwater monitoring data; and
 - C) ~~They must evaluate~~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.

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- D) The adjusted standard will automatically terminate if the owner or operator fails to timely file a required petition for adjusted standard.
 - 8) Adjusted standard procedures. The following procedures must be used in granting, modifying or terminating an adjusted standard pursuant to this subsection (e).
 - A) Except as otherwise provided, the owner or operator must follow the procedures of Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104 to petition the Board for an adjusted standard.
 - B) Initial justification. The Board will grant an adjusted standard pursuant to subsection (e)(1) of this Section if the owner or operator demonstrates that the removal plan and contingent corrective measures plans meet the requirements of subsections (e)(2) and (e)(3) of this Section.
 - C) The Board will include the following conditions in granting an adjusted standard pursuant to subsection (e)(1) of this Section:
 - i) A plan for removing hazardous wastes.
 - ii) A requirement that the owner or operator remove hazardous wastes in accordance with the plan.
 - iii) A contingent corrective measures plan.
 - iv) A requirement that, in the event of a release, the owner or operator must do as follows: within 35 days, file with the Board a petition for adjusted standard; implement the corrective measures plan; and, file semi-annual reports with the Agency.
 - v) A condition that the adjusted standard will terminate if the owner or operator fails to do as follows: implement the removal plan; or timely file a required petition for adjusted standard.
 - vi) A requirement that, in the event the adjusted standard is terminated, the owner or operator must commence closure

of the unit in accordance with the requirements of the closure plan and this Part.

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

9) The Agency must modify the RCRA permit to include the adjusted standard.

10) The owner or operator may file a permit modification application with a revised closure plan within 15 days after an adjusted standard is terminated.

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

Section 724.215 Certification of Closure

Within 60 days after completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, or landfill unit, and within 60 days after completion of final closure, the owner or operator must submit to the Agency, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by a qualified Professional Engineer~~an independent registered professional engineer~~. Documentation supporting the Professional Engineer's independent registered professional engineer's~~certification~~ must be furnished to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for closure under Section 724.243(i).

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

Section 724.216 Survey Plat

No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to any local zoning authority or authority with jurisdiction over local land use and to the Agency and record with land titles, a survey plat indicating the location and dimensions of landfill~~landfills~~ cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, that states the owner's and operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable regulations of Subpart G of this Part.

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

Section 724.220 Certification of Completion of Post-Closure Care

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Agency, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and a qualified Professional Engineer ~~an independent registered professional engineer~~. Documentation supporting the Professional Engineer's ~~independent registered professional engineer's~~ certification must be furnished to the Agency upon request until the Agency releases the owner or operator from the financial assurance requirements for post-closure care under Section 724.245(i).

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

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.240 Applicability

- a) The requirements of Sections 724.242, 724.243, and 724.247 through 724.251 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this Section or in Section 724.101.
- b) The requirements of Sections 724.244 and 724.245 apply only to owners and operators of the following:
 - 1) Disposal facilities;
 - 2) Piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that Sections 724.244 and 724.245 are made applicable to such facilities in Sections 724.328 and 724.358;
 - 3) Tank systems that are required pursuant to Section 724.297 to meet the requirements for landfills; or
 - 4) Containment buildings that are required pursuant to Section 724.1102 to meet the requirements for landfills.
- c) The State and the federal government are exempt from the requirements of this Subpart H.

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d) A permit or enforceable document can contain alternative requirements that replace all or part of the financial assurance requirements of this Subpart H applying to a regulated unit, as provided in 35 Ill. Adm. Code 703.161, where the Board or Agency has done the following:

- 1) The Board or Agency has established alternative requirements for the regulated unit established pursuant to Section 724.190(f) or 724.210(c)~~724.210(d)~~; and
- 2) The Board or Agency determines that it is not necessary to apply the financial assurance requirements of this Subpart H because the alternative financial assurance requirements will adequately protect human health and the environment.

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

Section 724.243 Financial Assurance for Closure

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

- a) Closure trust fund.
 - 1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection (a) and submitting an original signed duplicate of the trust agreement to the Agency. An owner or operator of a new facility must submit the original signed duplicate of the trust agreement to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.
 - 2) The wording of the trust agreement must be that specified in Section 724.251 and the trust agreement must be accompanied by a formal certification of acknowledgment (as specified in Section 724.251). 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

2365 operator over the term of the initial RCRA permit or over the remaining
2366 operating life of the facility as estimated in the closure plan, whichever
2367 period is shorter; this period is hereafter referred to as the "pay-in period."
2368 The payments into the closure trust fund must be made as follows:
2369

2370 A) For a new facility, the first payment must be made before the
2371 initial receipt of hazardous waste for treatment, storage, or
2372 disposal. A receipt from the trustee for this payment must be
2373 submitted by the owner or operator to the Agency before this
2374 initial receipt of hazardous waste. The first payment must be at
2375 least equal to the current closure cost estimate, except as provided
2376 in subsection (g) of this Section, divided by the number of years in
2377 the pay-in period. Subsequent payments must be made no later
2378 than 30 days after each anniversary date of the first payment. The
2379 amount of each subsequent payment must be determined by the
2380 following formula:
2381

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

2382 Where:

- 2383 CE = the current closure cost estimate
- 2384 CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period.

2385 B) If an owner or operator establishes a trust fund as specified in 35
2386 Ill. Adm. Code 725.243(a) and the value of that trust fund is less
2387 than the current closure cost estimate when a permit is awarded for
2388 the facility, the amount of the current closure cost estimate still to
2389 be paid into the trust fund must be paid in over the pay-in period as
2390 defined in subsection (a)(3) of this Section. Payments must
2391 continue to be made no later than 30 days after each anniversary
2392 date of the first payment made pursuant to 35 Ill. Adm. Code 725.
2393 The amount of each payment must be determined by the following
2394 formula:
2395
2396

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

2397 Where:

- 2398 CE = the current closure cost estimate
- 2399 CV = the current value of the trust fund
- 2400

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 or in 35 Ill. Adm. Code 725.243, its first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this subsection (a) and 35 Ill. Adm. Code 725.243, as applicable.
- 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate or obtain other financial assurance as specified in this Section to cover the difference.
- 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
- 8) If an owner or operator substitutes other financial assurance, as specified in this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.
- 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- 10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request

2443 reimbursement for closure expenditures by submitting itemized bills to the
2444 Agency. The owner or operator may request reimbursement for partial
2445 closure only if sufficient funds are remaining in the trust fund to cover the
2446 maximum costs of closing the facility over its remaining operating life.
2447 Within 60 days after receiving bills for partial or final closure activities,
2448 the Agency must instruct the trustee to make reimbursement in those
2449 amounts as the Agency specifies in writing if the Agency determines that
2450 the partial or final closure expenditures are in accordance with the
2451 approved closure plan, or otherwise justified. If the Agency determines
2452 that the maximum cost of closure over the remaining life of the facility
2453 will be significantly greater than the value of the trust fund, it must
2454 withhold reimbursement of such amounts as it deems prudent until it
2455 determines, in accordance with subsection (i) of this Section, that the
2456 owner or operator is no longer required to maintain financial assurance for
2457 final closure of the facility. If the Agency does not instruct the trustee to
2458 make such reimbursements, the Agency must provide the owner or
2459 operator with a detailed written statement of reasons.

- 2460
- 2461 11) The Agency must agree to termination of the trust when either of the
2462 following occurs:
- 2463
- 2464 A) An owner or operator substitutes alternate financial assurance, as
2465 specified in this Section; or
- 2466
- 2467 B) The Agency releases the owner or operator from the requirements
2468 of this Section in accordance with subsection (i).

2469

2470 b) Surety bond guaranteeing payment into a closure trust fund.

- 2471
- 2472 1) An owner or operator may satisfy the requirements of this Section by
2473 obtaining a surety bond that conforms to the requirements of this
2474 subsection (b) and submitting the bond to the Agency. An owner or
2475 operator of a new facility must submit the bond to the Agency at least 60
2476 days before the date on which hazardous waste is first received for
2477 treatment, storage or disposal. The bond must be effective before this
2478 initial receipt of hazardous waste. The surety company issuing the bond
2479 must, at a minimum, be among those listed as acceptable sureties on
2480 federal bonds in Circular 570 of the U.S. Department of the Treasury.

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2482 BOARD NOTE: The U.S. Department of the Treasury updates Circular
2483 570, "Companies Holding Certificates of Authority as Acceptable Sureties
2484 on Federal Bonds and as Acceptable Reinsuring Companies," on an annual

- 2485 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
2486 from the following website: <http://www.fms.treas.gov/c570/>.
2487
- 2488 2) The wording of the surety bond must be that specified in Section 724.251.
2489
- 2490 3) The owner or operator who uses a surety bond to satisfy the requirements
2491 of this Section must also establish a standby trust fund. Under the terms
2492 of the bond, all payments made thereunder will be deposited by the surety
2493 directly into the standby trust fund in accordance with instructions from
2494 the Agency. This standby trust fund must meet the requirements specified
2495 in subsection (a) of this Section except as follows:
2496
- 2497 A) An original, signed duplicate of the trust agreement must be
2498 submitted to the Agency with the surety bond; and
2499
- 2500 B) Until the standby trust fund is funded pursuant to the requirements
2501 of this Section, the following are not required by these regulations:
2502
- 2503 i) Payments into the trust fund as specified in subsection (a)
2504 of this Section;
2505
- 2506 ii) Updating of Schedule A of the trust agreement (see 35 Ill.
2507 Adm. Code 724.251) to show current closure cost
2508 estimates;
2509
- 2510 iii) Annual valuations, as required by the trust agreement; and
2511
- 2512 iv) Notices of nonpayment as required by the trust agreement.
2513
- 2514 4) The bond must guarantee that the owner or operator will do one of the
2515 following:
2516
- 2517 A) Fund the standby trust fund in an amount equal to the penal sum of
2518 the bond before the beginning of final closure of the facility;
2519
- 2520 B) Fund the standby trust fund in an amount equal to the penal sum
2521 within 15 days after an order to begin final closure is issued by the
2522 Board or a U.S. district court or other court of competent
2523 jurisdiction; or
2524
- 2525 C) Provide alternate financial assurance as specified in this Section,
2526 and obtain the Agency's written approval of the assurance
2527 provided, within 90 days after receipt by both the owner or

- 2528 operator and the Agency of a notice of cancellation of the bond
2529 from the surety.
2530
- 2531 5) Under the terms of the bond, the surety will become liable on the bond
2532 obligation when the owner or operator fails to perform as guaranteed by
2533 the bond.
2534
- 2535 6) The penal sum of the bond must be in an amount at least equal to the
2536 current closure cost estimate, except as provided in subsection (g) of this
2537 Section.
2538
- 2539 7) Whenever the current closure cost estimate increases to an amount greater
2540 than the penal sum, the owner or operator, within 60 days after the
2541 increase, must either cause the penal sum to be increased to an amount at
2542 least equal to the current closure cost estimate and submit evidence of
2543 such increase to the Agency or obtain other financial assurance, as
2544 specified in this Section, to cover the increase. Whenever the current
2545 closure cost estimate decreases, the penal sum may be reduced to the
2546 amount of the current closure cost estimate following written approval by
2547 the Agency.
2548
- 2549 8) Under the terms of the bond, the surety may cancel the bond by sending
2550 notice of cancellation by certified mail to the owner or operator and to the
2551 Agency. Cancellation may not occur, however, during the 120 days
2552 beginning on the date of receipt of the notice of cancellation by both the
2553 owner or operator and the Agency, as ~~evidenced~~evidence by the return
2554 receipts.
2555
- 2556 9) The owner or operator may cancel the bond if the Agency has given prior
2557 written consent based on its receipt of evidence of alternate financial
2558 assurance as specified in this Section.
2559
- 2560 c) Surety bond guaranteeing performance of closure.
2561
- 2562 1) An owner or operator may satisfy the requirements of this Section by
2563 obtaining a surety bond that conforms to the requirements of this
2564 subsection (c) and submitting the bond to the Agency. An owner or
2565 operator of a new facility must submit the bond to the Agency at least 60
2566 days before the date on which hazardous waste is first received for
2567 treatment, storage, or disposal. The bond must be effective before this
2568 initial receipt of hazardous waste. The surety company issuing the bond
2569 must, at a minimum, be among those listed as acceptable sureties on
2570 federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

- 2) The wording of the surety bond must be that specified in Section 724.251.
- 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust must meet the requirements specified in subsection (a) of this Section, except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a) of this Section;
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will do the following:
 - A) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or
 - B) Provide alternative financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond

- 2614 from the surety.
 2615
 2616 5) Under the terms of the bond, the surety will become liable on the bond
 2617 obligation when the owner or operator fails to perform as guaranteed by
 2618 the bond. Following a final judicial determination or Board order finding
 2619 that the owner or operator has failed to perform final closure in accordance
 2620 with the approved closure plan and other permit requirements when
 2621 required to do so, under the terms of the bond the surety will perform final
 2622 closure, as guaranteed by the bond, or will deposit the amount of the penal
 2623 sum into the standby trust fund.
 2624
 2625 6) The penal sum of the bond must be in an amount at least equal to the
 2626 current closure cost estimate.
 2627
 2628 7) Whenever the current closure cost estimate increases to an amount greater
 2629 than the penal sum, the owner or operator, within 60 days after the
 2630 increase, must either cause the penal sum to be increased to an amount at
 2631 least equal to the current closure cost estimate and submit evidence of
 2632 such increase to the Agency or obtain other financial assurance as
 2633 specified in this Section. Whenever the current closure cost estimate
 2634 decreases, the penal sum may be reduced to the amount of the current
 2635 closure cost estimate following written approval by the Agency.
 2636
 2637 8) Under the terms of the bond, the surety may cancel the bond by sending
 2638 notice of cancellation by certified mail to the owner or operator and to the
 2639 Agency. Cancellation may not occur, however, during the 120 days
 2640 beginning on the date of receipt of the notice of cancellation by both the
 2641 owner or operator and the Agency, as evidenced by the return receipts.
 2642
 2643 9) The owner or operator may cancel the bond if the Agency has given prior
 2644 written consent. The Agency must provide such written consent when
 2645 either of the following occurs:
 2646
 2647 A) An owner or operator substitutes alternative financial assurance, as
 2648 specified in this Section; or
 2649
 2650 B) The Agency releases the owner or operator from the requirements
 2651 of this Section in accordance with subsection (i) of this Section.
 2652
 2653 10) The surety must not be liable for deficiencies in the performance of
 2654 closure by the owner or operator after the Agency releases the owner or
 2655 operator from the requirements of this Section in accordance with
 2656 subsection (i) of this Section.

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- d) Closure letter of credit.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (d) and submitting the letter to the Agency. An owner or operator of a new facility must submit the letter of credit to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.
 - 2) The wording of the letter of credit must be that specified in Section 724.251.
 - 3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a) of this Section, except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations.
 - i) Payments into the trust fund, as specified in subsection (a) of this Section;
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
 - 4) The letter or credit must be accompanied by a letter from the owner or

- 2700 operator referring to the letter of credit by number, issuing institution, and
 2701 date and providing the following information: the USEPA identification
 2702 number, name and address of the facility, and the amount of funds assured
 2703 for closure of the facility by the letter of credit.
 2704
- 2705 5) The letter of credit must be irrevocable and issued for a period of at least
 2706 one year. The letter of credit must provide that the expiration date will be
 2707 automatically extended for a period of at least one year unless, at least 120
 2708 days before the current expiration date, the issuing institution notifies both
 2709 the owner or operator and the Agency by certified mail of a decision not to
 2710 extend the expiration date. Under the terms of the letter of credit, the 120
 2711 days will begin on the date when both the owner or operator and the
 2712 Agency have received the notice, as evidenced by the return receipts.
 2713
- 2714 6) The letter of credit must be issued in an amount at least equal to the
 2715 current closure cost estimate, except as provided in subsection (g) of this
 2716 Section.
 2717
- 2718 7) Whenever the current closure cost estimate increases to an amount greater
 2719 than the amount of the credit, the owner or operator, within 60 days after
 2720 the increase, must either cause the amount of the credit to be increased so
 2721 that it at least equals the current closure cost estimate and submit evidence
 2722 of such increase to the Agency, or obtain other financial assurance, as
 2723 specified in this Section, to cover the increase. Whenever the current
 2724 closure cost estimate decreases, the amount of the credit may be reduced
 2725 to the amount of the current closure cost estimate following written
 2726 approval by the Agency.
 2727
- 2728 8) Following a final judicial determination or Board order finding that the
 2729 owner or operator has failed to perform final closure in accordance with
 2730 the closure plan and other permit requirements when required to do so, the
 2731 Agency may draw on the letter of credit.
 2732
- 2733 9) If the owner or operator does not establish alternative financial assurance,
 2734 as specified in this Section, and obtain written approval of such alternative
 2735 assurance from the Agency within 90 days after receipt by both the owner
 2736 or operator and the Agency of a notice from issuing institution that it has
 2737 decided not to extend the letter of credit beyond the current expiration
 2738 date, the Agency must draw on the letter of credit. The Agency may delay
 2739 the drawing if the issuing institution grants an extension of the term of the
 2740 credit. During the last 30 days of any such extension the Agency must
 2741 draw on the letter of credit if the owner or operator has failed to provide
 2742 alternative financial assurance, as specified in this Section, and obtain

- 2743 written approval of such assurance from the Agency.
2744
2745 10) The Agency must return the letter of credit to the issuing institution for
2746 termination when either of the following occurs:
2747
2748 A) An owner or operator substitutes alternative financial assurance, as
2749 specified in this Section; or
2750
2751 B) The Agency releases the owner or operator from the requirements
2752 of this Section in accordance with subsection (i) of this Section.
2753
2754 e) Closure insurance.
2755
2756 1) An owner or operator may satisfy the requirements of this Section by
2757 obtaining closure insurance that conforms to the requirements of this
2758 subsection (e) and submitting a certificate of such insurance to the
2759 Agency. An owner or operator of a new facility must submit the
2760 certificate of insurance to the Agency at least 60 days before the date on
2761 which hazardous waste is first received for treatment, storage, or disposal.
2762 The insurance must be effective before this initial receipt of hazardous
2763 waste. At a minimum, the insurer must be licensed to transact the
2764 business of insurance or be eligible to provide insurance as an excess or
2765 surplus lines insurer in one or more States.
2766
2767 2) The wording of the certificate of insurance must be that specified in
2768 Section 724.251.
2769
2770 3) The closure insurance policy must be issued for a face amount at least
2771 equal to the current closure cost estimate, except as provided in subsection
2772 (g) of this Section. The term "face amount" means the total amount the
2773 insurer is obligated to pay under the policy. Actual payments by the
2774 insurer will not change the face amount, although the insurer's future
2775 liability will be lowered by the amount of the payments.
2776
2777 4) The closure insurance policy must guarantee that funds will be available to
2778 close the facility whenever final closure occurs. The policy must also
2779 guarantee that, once final closure begins, the insurer will be responsible
2780 for paying out funds, up to an amount equal to the face amount of the
2781 policy, upon the direction of the Agency to such party or parties, as the
2782 Agency specifies.
2783
2784 5) After beginning partial or final closure, an owner or operator or any other
2785 person authorized to conduct closure may request reimbursement for

2786 closure expenditures by submitting itemized bills to the Agency. The
 2787 owner or operator may request reimbursements for partial closure only if
 2788 the remaining value of the policy is sufficient to cover the maximum costs
 2789 of closing the facility over its remaining operating life. Within 60 days
 2790 after receiving bills for closure activities, the Agency must instruct the
 2791 insurer to make reimbursement in such amounts, as the Agency specifies
 2792 in writing, if the Agency determines that the partial or final closure
 2793 expenditures are in accordance with the approved closure plan or
 2794 otherwise justified. If the Agency determines that the maximum cost of
 2795 closure over the remaining life of the facility will be significantly greater
 2796 than the face amount of the policy, it must withhold reimbursement of
 2797 such amounts that it deems prudent, until it determines, in accordance with
 2798 subsection (i) of this Section, that the owner or operator is no longer
 2799 required to maintain financial assurance for closure of the facility. If the
 2800 Agency does not instruct the insurer to make such reimbursements, the
 2801 Agency must provide the owner or operator with a detailed written
 2802 statement of reasons.

2803
 2804 6) The owner or operator must maintain the policy in full force and effect
 2805 until the Agency consents to termination of the policy by the owner or
 2806 operator, as specified in subsection (e)(10) of this Section. Failure to pay
 2807 the premium, without substitution of alternative financial assurance, as
 2808 specified in this Section, will constitute a significant violation of these
 2809 regulations, warranting such remedy as the Board may impose pursuant to
 2810 the Environmental Protection Act. Such violation will be deemed to begin
 2811 upon receipt by the Agency of a notice of future cancellation, termination
 2812 or failure to renew due to nonpayment of the premium, rather than upon
 2813 the date of expiration.

2814
 2815 7) Each policy must contain a provision allowing assignment of the policy to
 2816 a successor owner or operator. Such assignment may be conditional upon
 2817 consent of the insurer, provided such consent is not unreasonably refused.
 2818

2819 8) The policy must provide that the insurer may not cancel, terminate, or fail
 2820 to renew the policy except for failure to pay the premium. The automatic
 2821 renewal of the policy must, at a minimum, provide the insured with the
 2822 option of renewal at the face amount of the expiring policy. If there is a
 2823 failure to pay the premium, the insurer may elect to cancel, terminate, or
 2824 fail to renew the policy by sending notice by certified mail to the owner or
 2825 operator and the Agency. Cancellation, termination, or failure to renew
 2826 may not occur, however, during the 120 days beginning with the date of
 2827 receipt of the notice by both the Agency and the owner or operator, as
 2828 evidenced by the return receipts. Cancellation, termination, or failure to

2829 renew may not occur, and the policy will remain in full force and effect, in
2830 the event that on or before the date of expiration one of the following
2831 occurs:

- 2832
- 2833 A) The Agency deems the facility abandoned;
- 2834
- 2835 B) The permit is terminated or revoked or a new permit is denied;
- 2836
- 2837 C) Closure is ordered by the Board or a U.S. district court or other
- 2838 court of competent jurisdiction;
- 2839
- 2840 D) The owner or operator is named as debtor in a voluntary or
- 2841 involuntary proceeding under 11 USC (Bankruptcy); or
- 2842
- 2843 E) The premium due is paid.
- 2844

2845 9) Whenever the current closure cost estimate increases to an amount greater
2846 than the face amount of the policy, the owner or operator, within 60 days
2847 after the increase, must either cause the face amount to be increased to an
2848 amount at least equal to the current closure cost estimate and submit
2849 evidence of such increase to the Agency, or obtain other financial
2850 assurance, as specified in this Section to cover the increase. Whenever the
2851 current closure cost estimate decreases, the face amount may be reduced to
2852 the amount of the current closure cost estimate following written approval
2853 by the Agency.

2854

2855 10) The Agency must give written consent to the owner or operator that it may
2856 terminate the insurance policy when either of the following occurs:

- 2857
- 2858 A) An owner or operator substitutes alternative financial assurance, as
- 2859 specified in this Section; or
- 2860
- 2861 B) The Agency releases the owner or operator from the requirements
- 2862 of this Section in accordance with subsection (i) of this Section.
- 2863

2864 f) Financial test and corporate guarantee for closure.

2865

2866 1) An owner or operator may satisfy the requirements of this Section by
2867 demonstrating that it passes a financial test, as specified in this subsection
2868 (f). To pass this test the owner or operator must meet the criteria of either
2869 subsection (f)(1)(A) or (f)(1)(B) of this Section:

- 2870
- 2871 A) The owner or operator must have the following:

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- i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
- B) The owner or operator must have the following:
- i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure estimates and the current plugging and abandonment cost estimates.
- 2) The phrase "current closure and post-closure cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1-4 of the letter from the owner's or operator's chief financial officer (see Section 724.251). The phrase "current plugging and abandonment cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1-4 of the letter from the owner's or operator's chief financial officer (see 35 Ill.

- 2915 Adm. Code 704.240).
 2916
 2917 3) To demonstrate that it meets this test, the owner or operator must submit
 2918 the following items to the Agency:
 2919
 2920 A) A letter signed by the owner's or operator's chief financial officer
 2921 and worded as specified in Section 724.251; and
 2922
 2923 B) A copy of the independent certified public accountant's report on
 2924 examination of the owner's or operator's financial statements for
 2925 the latest completed fiscal year; and
 2926
 2927 C) A special report from the owner's or operator's independent
 2928 certified public accountant to the owner or operator stating the
 2929 following:
 2930
 2931 i) That the accountant has compared the data that the letter
 2932 from the chief financial officer specifies as having been
 2933 derived from the independently audited, year-end financial
 2934 statements for the latest fiscal year with the amounts in
 2935 such financial statements; and
 2936
 2937 ii) In connection with that procedure, that no matters came to
 2938 the accountant's attention which caused the accountant to
 2939 believe that the specified data should be adjusted.
 2940
 2941 4) An owner or operator of a new facility must submit the items specified in
 2942 subsection (f)(3) of this Section to the Agency at least 60 days before the
 2943 date on which hazardous waste is first received for treatment, storage, or
 2944 disposal.
 2945
 2946 5) After the initial submission of items specified in subsection (f)(3) of this
 2947 Section, the owner or operator must send updated information to the
 2948 Agency within 90 days after the close of each succeeding fiscal year. This
 2949 information must consist of all three items specified in subsection (f)(3) of
 2950 this Section.
 2951
 2952 6) If the owner or operator no longer meets the requirements of subsection
 2953 (f)(1) of this Section the owner or operator must send notice to the Agency
 2954 of intent to establish alternative financial assurance, as specified in this
 2955 Section. The notice must be sent by certified mail within 90 days after the
 2956 end of the fiscal year for which the year-end financial data show that the
 2957 owner or operator no longer meets the requirements. The owner or

- 2958 operator must provide the alternative financial assurance within 120 days
 2959 after the end of such fiscal year.
 2960
- 2961 7) The Agency may, based on a reasonable belief that the owner or operator
 2962 may no longer meet the requirements of subsection (f)(1) of this Section,
 2963 require reports of financial condition at any time from the owner or
 2964 operator in addition to those specified in subsection (f)(3) of this Section.
 2965 If the Agency finds, on the basis of such reports or other information, that
 2966 the owner or operator no longer meets the requirements of subsection
 2967 (f)(1) of this Section, the owner or operator must provide alternative
 2968 financial assurance, as specified in this Section, within 30 days after
 2969 notification of such a finding.
 2970
- 2971 8) The Agency may disallow use of this test on the basis of qualifications in
 2972 the opinion expressed by the independent certified public accountant in the
 2973 accountant's report on examination of the owner's or operator's financial
 2974 statements (see subsection (f)(3)(B) of this Section). An adverse opinion
 2975 or a disclaimer of opinion will be cause for disallowance. The Agency
 2976 must evaluate other qualifications on an individual basis. The owner or
 2977 operator must provide alternative financial assurance, as specified in this
 2978 Section, within 30 days after notification of the disallowance.
 2979
- 2980 9) The owner or operator is no longer required to submit the items specified
 2981 in subsection (f)(3) of this Section when either of the following occurs:
 2982
- 2983 A) An owner or operator substitutes alternative financial assurance, as
 2984 specified in this Section; or
 2985
- 2986 B) The Agency releases the owner or operator from the requirements
 2987 of this Section in accordance with subsection (i) of this Section.
 2988
- 2989 10) An owner or operator may meet the requirements of this Section by
 2990 obtaining a written guarantee, hereafter referred to as "corporate
 2991 guarantee." The guarantor must be the direct or higher-tier parent
 2992 corporation of the owner or operator, a firm whose parent corporation is
 2993 also the parent corporation of the owner or operator, or a firm with a
 2994 "substantial business relationship" with the owner or operator. The
 2995 guarantor must meet the requirements for owners or operators in
 2996 subsections (f)(1) through (f)(8) of this Section, must comply with the
 2997 terms of the corporate guarantee, and the wording of the corporate
 2998 guarantee must be that specified in Section 724.251. The certified copy of
 2999 the corporate guarantee must accompany the items sent to the Agency, as
 3000 specified in subsection (f)(3) of this Section. One of these items must be

3001 the letter from the guarantor's chief financial officer. If the guarantor's
 3002 parent corporation is also the parent corporation of the owner or operator,
 3003 the letter must describe the value received in consideration of the
 3004 guarantee. If the guarantor is a firm with a "substantial business
 3005 relationship" with the owner or operator, this letter must describe this
 3006 "substantial business relationship" and the value received in consideration
 3007 of the guarantee. The terms of the corporate guarantee must provide as
 3008 follows:

3009
 3010 A) If the owner or operator fails to perform final closure of a facility
 3011 covered by the corporate guarantee in accordance with the closure
 3012 plan and other permit requirements whenever required to do so, the
 3013 guarantor will do so or establish a trust fund, as specified in
 3014 subsection (a) of this Section, in the name of the owner or operator.

3015
 3016 B) The corporate guarantee will remain in force unless the guarantor
 3017 sends notice of cancellation by certified mail to the owner or
 3018 operator and to the Agency. Cancellation may not occur, however,
 3019 during the 120 days beginning on the date of receipt of the notice
 3020 of cancellation by both the owner or operator and the Agency, as
 3021 evidenced by the return receipts.

3022
 3023 C) If the owner or operator fails to provide alternative financial
 3024 assurance as specified in this Section and obtain the written
 3025 approval of such alternative assurance from the Agency within 90
 3026 days after receipt by both the owner or operator and the Agency of
 3027 a notice of cancellation of the corporate guarantee from the
 3028 guarantor, the guarantor will provide such alternative financial
 3029 assurance in the name of the owner or operator.

3030
 3031 g) Use of multiple financial mechanisms. An owner or operator may satisfy the
 3032 requirements of this Section by establishing more than one financial mechanism
 3033 per facility. These mechanisms are limited to trust funds, surety bonds
 3034 guaranteeing payment into a trust fund, letters of credit, and insurance. The
 3035 mechanisms must be as specified in subsections (a), (b), (d), and (e) of this
 3036 Section, respectively, except that it is the combination of mechanisms, rather than
 3037 the single mechanism, that must provide financial assurance for an amount at least
 3038 equal to the current closure cost estimate. If an owner or operator uses a trust
 3039 fund in combination with a surety bond or a letter of credit, it may use the trust
 3040 fund as the standby trust fund for the other mechanisms. A single standby trust
 3041 fund may be established for two or more mechanisms. The Agency may use any
 3042 or all of the mechanisms to provide for closure of the facility.
 3043

- 3044 h) Use of a financial mechanism for multiple facilities. An owner or operator may
 3045 use a financial assurance mechanism specified in this Section to meet the
 3046 requirements of this Section for more than one facility. Evidence of financial
 3047 assurance submitted to the Agency must include a list showing, for each facility,
 3048 the USEPA identification number, name, address, and the amount of funds for
 3049 closure assured by the mechanism. The amount of funds available through the
 3050 mechanism must be no less than the sum of funds that would be available if a
 3051 separate mechanism had been established and maintained for each facility. The
 3052 amount of funds available to the Agency must be sufficient to close all of the
 3053 owner or operator's facilities. In directing funds available through the mechanism
 3054 for closure of any of the facilities covered by the mechanism, the Agency may
 3055 direct only the amount of funds designated for that facility, unless the owner or
 3056 operator agrees to the use of additional funds available under the mechanism.
 3057
- 3058 i) Release of the owner or operator from the requirements of this Section. Within
 3059 60 days after receiving certifications from the owner or operator and a qualified
 3060 Professional Engineer~~an independent registered professional engineer~~ that final
 3061 approved closure has been accomplished in accordance with the closure plan, the
 3062 Agency must notify the owner or operator in writing that it is no longer required
 3063 by this Section to maintain financial assurance for closure of the facility, unless
 3064 the Agency determines that closure has not been in accordance with the approved
 3065 closure plan. The Agency must provide the owner or operator a detailed written
 3066 statement of any such determination that closure has not been in accordance with
 3067 the approved closure plan.
 3068
- 3069 j) Appeal. The following Agency actions are deemed to be permit modifications or
 3070 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 3071 702.184(e)(3)):
 3072
- 3073 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 3074 credit, or insurance;
- 3075
- 3076 2) Requiring alternative assurance upon a finding that an owner or operator
 3077 or parent corporation no longer meets a financial test.
 3078

3079 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 3080

3081 **Section 724.245 Financial Assurance for Post-Closure Care**
 3082

3083 An owner or operator of a hazardous waste management unit subject to the requirements of
 3084 Section 724.244 must establish financial assurance for post-closure care in accordance with the
 3085 approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste
 3086 or the effective date of the regulation, whichever is later. The owner or operator must choose

3087 from among the following options:

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a) Post-closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund that conforms to the requirements of this subsection (a) and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a new facility must submit the original, signed duplicate of the trust agreement to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be that specified in Section 724.251 and the trust agreement accompanied by a formal certification of acknowledgment (as specified in Section 724.251). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

A) For a new facility, the first payment must be made before the initial receipt of hazardous waste for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Agency before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in subsection (g) of this Section, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by the following formula:

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

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.

3128
 3129 B) If an owner or operator establishes a trust fund, as specified in 35
 3130 Ill. Adm. Code 725.245(a), and the value of that trust fund is less
 3131 than the current post-closure cost estimate when a permit is
 3132 awarded for the facility, the amount of the current post-closure cost
 3133 estimate still to be paid into the trust fund must be paid in over the
 3134 pay-in period as defined in subsection (a)(3) of this Section.
 3135 Payments must continue to be made no later than 30 days after
 3136 each anniversary date of the first payment made pursuant to 35 Ill.
 3137 Adm. Code 725. The amount of each payment must be determined
 3138 by the following formula:
 3139

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

3140
 3141 Where:
 3142
 3143

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.

3144
 3145 4) The owner or operator may accelerate payments into the trust fund or
 3146 owner or operator must maintain the value of the fund at no less than the
 3147 value that the fund would have if annual payments were made as specified
 3148 in subsection (a)(3) of this Section.
 3149
 3150 5) If the owner or operator establishes a post-closure trust fund after having
 3151 used one or more alternative mechanisms specified in this Section or in 35
 3152 Ill. Adm. Code 725.245, its first payment must be in at least the amount
 3153 that the fund would contain if the trust fund were established initially and
 3154 annual payments made according to specifications of this subsection (a)
 3155 and 35 Ill. Adm. Code 725.245, as applicable.
 3156
 3157 6) After the pay-in period is completed, whenever the current post-closure
 3158 cost estimate changes during the operating life of the facility, the owner or
 3159 operator must compare the new estimate with the trustee's most recent
 3160 annual valuation of the trust fund. If the value of the fund is less than the
 3161 amount of the new estimate, the owner or operator, within 60 days after
 3162 the change in the cost estimate, must either deposit an amount into the
 3163 fund so that its value after this deposit at least equals the amount of the
 3164 current post-closure cost estimate, or obtain other financial assurance, as

- 3165 specified in this Section, to cover the difference.
 3166
 3167 7) During the operating life of the facility, if the value of the trust fund is
 3168 greater than the total amount of the current post-closure cost estimate, the
 3169 owner or operator may submit a written request to the Agency for release
 3170 of the amount in excess of the current post-closure cost estimate.
 3171
 3172 8) If an owner or operator substitutes other financial assurance as specified in
 3173 this Section for all or part of the trust fund, it may submit a written request
 3174 to the Agency for release of the amount in excess of the current post-
 3175 closure cost estimate covered by the trust fund.
 3176
 3177 9) Within 60 days after receiving a request from the owner or operator for
 3178 release of funds, as specified in subsection (a)(7) or (a)(8) of this Section,
 3179 the Agency must instruct the trustee to release to the owner or operator
 3180 such funds as the Agency specifies in writing.
 3181
 3182 10) During the period of post-closure care, the Agency must approve a release
 3183 of funds if the owner or operator demonstrates to the Agency that the
 3184 value of the trust fund exceeds the remaining cost of post-closure care.
 3185
 3186 11) An owner or operator or any other person authorized to perform post-
 3187 closure care may request reimbursement for post-closure care expenditures
 3188 by submitting itemized bills to the Agency. Within 60 days after receiving
 3189 bills for post-closure activities, the Agency must instruct the trustee to
 3190 make requirements in those amounts that the Agency specifies in writing
 3191 if the Agency determines that the post-closure care expenditures are in
 3192 accordance with the approved post-closure plan or otherwise justified. If
 3193 the Agency does not instruct the trustee to make such reimbursements, the
 3194 Agency must provide the owner or operator with a detailed written
 3195 statement of reasons.
 3196
 3197 12) The Agency must agree to termination of the trust when either of the
 3198 following occurs:
 3199
 3200 A) An owner or operator substitutes alternative financial assurance, as
 3201 specified in this Section; or
 3202
 3203 B) The Agency releases the owner or operator from the requirements
 3204 of this Section in accordance with subsection (i) of this Section.
 3205
 3206 b) Surety bond guaranteeing payment into a post-closure trust fund.
 3207

- 3208 1) An owner or operator may satisfy the requirements of this Section by
 3209 obtaining a surety bond that conforms to the requirements of this
 3210 subsection (b) and submitting the bond to the Agency. An owner or
 3211 operator of a new facility must submit the bond to the Agency at least 60
 3212 days before the date on which hazardous waste is first received for
 3213 disposal. The bond must be effective before this initial receipt of
 3214 hazardous waste. The surety company issuing the bond must, at a
 3215 minimum, be among those listed as acceptable sureties on federal bonds in
 3216 Circular 570 of the U.S. Department of the Treasury.
 3217
 3218 BOARD NOTE: The U.S. Department of Treasury updates Circular 570,
 3219 "Companies Holding Certificates of Authority as Acceptable Sureties on
 3220 Federal Bonds and as Acceptable Reinsuring Companies," on an annual
 3221 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
 3222 from the following website: <http://www.fms.treas.gov/c570/>.
 3223
 3224 2) The wording of the surety bond must be that specified in Section 724.251.
 3225
 3226 3) The owner or operator who uses a surety bond to satisfy the requirements
 3227 of this Section must also establish a standby trust fund. Under the terms
 3228 of the bond, all payments made thereunder will be deposited by the surety
 3229 directly into the standby trust fund in accordance with instructions from
 3230 the Agency. This standby trust fund must meet the requirements specified
 3231 in subsection (a) of this Section, except as follows:
 3232
 3233 A) An original, signed duplicate of the trust agreement must be
 3234 submitted to the Agency with the surety bond; and
 3235
 3236 B) Until the standby trust fund is funded pursuant to the requirements
 3237 of this Section, the following are not required by these regulations:
 3238
 3239 i) Payments into the trust fund, as specified in subsection (a)
 3240 of this Section;
 3241
 3242 ii) Updating of Schedule A of the trust agreement (as specified
 3243 in Section 724.251) to show current post-closure cost
 3244 estimates;
 3245
 3246 iii) Annual valuations, as required by the trust agreement; and
 3247
 3248 iv) Notices of nonpayment, as required by the trust agreement.
 3249
 3250 4) The bond must guarantee that the owner or operator will do one of the

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following:

- A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
 - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a U.S. district court or other court of competent jurisdiction; or
 - C) Provide alternative financial assurance as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
 - 6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (g) of this Section.
 - 7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
 - 8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidence by the return receipts.
 - 9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternative financial assurance, as specified in this Section.

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- c) Surety bond guaranteeing performance of post-closure care.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (c) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.
 - 2) The wording of the surety bond must be that specified in Section 724.251.
 - 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust must meet the requirements specified in subsection (a) of this Section, except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required:
 - i) Payments into the trust fund, as specified in subsection (a) of this Section;
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and

- 3337 iv) Notices of nonpayment, as required by the trust agreement.
3338
3339 4) The bond must guarantee that the owner or operator will do either of the
3340 following:
3341
3342 A) Perform final post-closure care in accordance with the post-closure
3343 plan and other requirements of the permit for the facility; or
3344
3345 B) Provide alternative financial assurance, as specified in this Section,
3346 and obtain the Agency's written approval of the assurance
3347 provided, within 90 days after receipt by both the owner or
3348 operator and the Agency of a notice of cancellation of the bond
3349 from the surety.
3350
3351 5) Under the terms of the bond, the surety will become liable on the bond
3352 obligation when the owner or operator fails to perform as guaranteed by
3353 the bond. Following a final judicial determination or Board order finding
3354 that the owner or operator has failed to perform post-closure care in
3355 accordance with the approved post-closure plan and other permit
3356 requirements, under the terms of the bond the surety will perform post-
3357 closure care in accordance with post-closure plan and other permit
3358 requirements or will deposit the amount of the penal sum into the standby
3359 trust fund.
3360
3361 6) The penal sum of the bond must be in an amount at least equal to the
3362 current post-closure cost estimate.
3363
3364 7) Whenever the current post-closure cost estimate increases to an amount
3365 greater than the penal sum during the operating life of the facility, the
3366 owner or operator, within 60 days after the increase, must either cause the
3367 penal sum to be increased to an amount at least equal to the current post-
3368 closure cost estimate and submit evidence of such increase to the Agency,
3369 or obtain other financial assurance, as specified in this Section. Whenever
3370 the current closure cost estimate decreases during the operating life of the
3371 facility, the penal sum may be reduced to the amount of the current post-
3372 closure cost estimate following written approval by the Agency.
3373
3374 8) During the period of post-closure care, the Agency must approve a
3375 decrease in the penal sum if the owner or operator demonstrates to the
3376 Agency that the amount exceeds the remaining cost of post-closure care.
3377
3378 9) Under the terms of the bond, the surety may cancel the bond by sending
3379 notice of cancellation by certified mail to the owner or operator and to the

- 3380 Agency. Cancellation may not occur, however, during the 120 days
3381 beginning on the date of receipt of the notice of cancellation by both the
3382 owner or operator and the Agency, as evidenced by the return receipts.
3383
- 3384 10) The owner or operator may cancel the bond if the Agency has given prior
3385 written consent. The Agency must provide such written consent when
3386 either of the following occurs:
3387
- 3388 A) An owner or operator substitutes alternative financial assurance as
3389 specified in this Section; or
3390
- 3391 B) The Agency releases the owner or operator from the requirements
3392 of this Section in accordance with subsection (i) of this Section.
3393
- 3394 11) The surety will not be liable for deficiencies in the performance of post-
3395 closure care by the owner or operator after the Agency releases the owner
3396 or operator from the requirements of this Section in accordance with
3397 subsection (i) of this Section.
3398
- 3399 d) Post-closure letter of credit.
3400
- 3401 1) An owner or operator may satisfy the requirements of this Section by
3402 obtaining an irrevocable standby letter of credit that conforms to the
3403 requirements of this subsection (d) and submitting the letter to the Agency.
3404 An owner or operator of a new facility must submit the letter of credit to
3405 the Agency at least 60 days before the date on which hazardous waste is
3406 first received for disposal. The letter of credit must be effective before
3407 this initial receipt of hazardous waste. The issuing institution must be an
3408 entity that has the authority to issue letters of credit and whose letter-of-
3409 credit operations are regulated and examined by a federal or State agency.
3410
- 3411 2) The wording of the letter of credit must be that specified in Section
3412 724.251.
3413
- 3414 3) An owner or operator who uses a letter of credit to satisfy the
3415 requirements of this Section must also establish a standby trust fund.
3416 Under the terms of the letter of credit, all amounts paid pursuant to a draft
3417 by the Agency must be deposited by the issuing institution directly into the
3418 standby trust fund in accordance with instructions from the Agency. This
3419 standby trust fund must meet the requirements of the trust fund specified
3420 in subsection (a) of this Section, except as follows:
3421
- 3422 A) An original, signed duplicate of the trust agreement must be

3423 submitted to the Agency with the letter of credit; and
3424

3425 B) Unless the standby trust fund is funded pursuant to the
3426 requirements of this Section, the following are not required by
3427 these regulations:

3428
3429 i) Payments into the trust fund, as specified in subsection (a)
3430 of this Section;

3431
3432 ii) Updating of Schedule A of the trust agreement (as specified
3433 in Section 724.251) to show current post-closure cost
3434 estimates;

3435
3436 iii) Annual valuations, as required by the trust agreement; and

3437
3438 iv) Notices of nonpayment, as required by the trust agreement.
3439

3440 4) The letter or credit must be accompanied by a letter from the owner or
3441 operator referring to the letter of credit by number, issuing institution, and
3442 date and providing the following information: the USEPA identification
3443 number, name and address of the facility, and the amount of funds assured
3444 for post-closure care of the facility by the letter of credit.
3445

3446 5) The letter of credit must be irrevocable and issued for a period of at least
3447 one year. The letter of credit must provide that the expiration date will be
3448 automatically extended for a period of at least one year unless, at least 120
3449 days before the current expiration date, the issuing institution notifies both
3450 the owner or operator and the Agency by certified mail of a decision not to
3451 extend the expiration date. Under the terms of the letter of credit, the 120
3452 days will begin on the date when both the owner or operator and the
3453 Agency have received the notice, as evidenced by the return receipts.
3454

3455 6) The letter of credit must be issued in an amount at least equal to the
3456 current post-closure cost estimate, except as provided in subsection (g) of
3457 this Section.
3458

3459 7) Whenever the current post-closure cost estimate increases to an amount
3460 greater than the amount of the credit during the operating life of the
3461 facility, the owner or operator, within 60 days after the increase, must
3462 either cause the amount of the credit to be increased so that it at least
3463 equals the current post-closure cost estimate and submit evidence of such
3464 increase to the Agency, or obtain other financial assurance as specified in
3465 this Section to cover the increase. Whenever the current post-closure cost

- 3466 estimate decreases during the operating life of the facility, the amount of
 3467 the credit may be reduced to the amount of the current post-closure cost
 3468 estimate following written approval by the Agency.
 3469
- 3470 8) During the period of post-closure care, the Agency must approve a
 3471 decrease in the amount of the letter of credit if the owner or operator
 3472 demonstrates to the Agency that the amount exceeds the remaining cost of
 3473 post-closure care.
 3474
- 3475 9) Following a final judicial determination or Board order finding that the
 3476 owner or operator has failed to perform post-closure care in accordance
 3477 with the approved post-closure plan and other permit requirements, the
 3478 Agency may draw on the letter of credit.
 3479
- 3480 10) If the owner or operator does not establish alternative financial assurance,
 3481 as specified in this Section, and obtain written approval of such alternative
 3482 assurance from the Agency within 90 days after receipt by both the owner
 3483 or operator and the Agency of a notice from the issuing institution that it
 3484 has decided not to extend the letter of credit beyond the current expiration
 3485 date, the Agency must draw on the letter of credit. The Agency may delay
 3486 the drawing if the issuing institution grants an extension of the term of the
 3487 credit. During the last 30 days of any such extension the Agency must
 3488 draw on the letter of credit if the owner or operator has failed to provide
 3489 alternative financial assurance, as specified in this Section, and obtain
 3490 written approval of such assurance from the Agency.
 3491
- 3492 11) The Agency must return the letter of credit to the issuing institution for
 3493 termination when either of the following occurs:
 3494
- 3495 A) An owner or operator substitutes alternative financial assurance, as
 3496 specified in this Section; or
 3497
- 3498 B) The Agency releases the owner or operator from the requirements
 3499 of this Section in accordance with subsection (i) of this Section.
 3500
- 3501 e) Post-closure insurance.
 3502
- 3503 1) An owner or operator may satisfy the requirements of this Section by
 3504 obtaining post-closure insurance that conforms to the requirements of this
 3505 subsection (e) and submitting a certificate of such insurance to the
 3506 Agency. An owner or operator of a new facility must submit the
 3507 certificate of insurance to the Agency at least 60 days before the date on
 3508 which hazardous waste is first received for disposal. The insurance must

- 3509 be effective before this initial receipt of hazardous waste. At a minimum,
 3510 the insurer must be licensed to transact the business of insurance or be
 3511 eligible to provide insurance as an excess or surplus lines insurer in one or
 3512 more states.
 3513
- 3514 2) The wording of the certificate of insurance must be that specified in
 3515 Section 724.251.
 3516
- 3517 3) The post-closure insurance policy must be issued for a face amount at least
 3518 equal to the current post-closure cost estimate, except as provided in
 3519 subsection (g) of this Section. The term "face amount" means the total
 3520 amount the insurer is obligated to pay under the policy. Actual payments
 3521 by the insurer will not change the face amount, although the insurer's
 3522 future liability will be lowered by the amount of the payments.
 3523
- 3524 4) The post-closure insurance policy must guarantee that funds will be
 3525 available to provide post-closure care of facility whenever the post-closure
 3526 period begins. The policy must also guarantee that, once post-closure care
 3527 begins, the insurer will be responsible for paying out funds, up to an
 3528 amount equal to the face amount of the policy, upon the direction of the
 3529 Agency to such party or parties as the Agency specifies.
 3530
- 3531 5) An owner or operator or any other person authorized to perform post-
 3532 closure care may request reimbursement for post-closure care expenditures
 3533 by submitting itemized bills to the Agency. Within 60 days after receiving
 3534 bills for post-closure activities, the Agency must instruct the insurer to
 3535 make reimbursement in such amounts as the Agency specifies in writing if
 3536 the Agency determines that the post-closure care expenditures are in
 3537 accordance with the approved post-closure plan or otherwise justified. If
 3538 the Agency does not instruct the insurer to make such reimbursements, the
 3539 Agency must provide the owner or operator with a detailed written
 3540 statement of reasons.
 3541
- 3542 6) The owner or operator must maintain the policy in full force and effect
 3543 until the Agency consents to termination of the policy by the owner or
 3544 operator as specified in subsection (e)(11) of this Section. Failure to pay
 3545 the premium, without substitution of alternative financial assurance as
 3546 specified in this Section, will constitute a significant violation of these
 3547 regulations, warranting such remedy as the Board may impose pursuant to
 3548 the Environmental Protection Act [415 ILCS 5]. Such violation will be
 3549 deemed to begin upon receipt by the Agency of a notice of future
 3550 cancellation, termination, or failure to renew due to nonpayment of the
 3551 premium, rather than upon the date of expiration.

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

3595 policy accrues, the insurer must thereafter annually increase the face
 3596 amount of the policy. Such increase must be equivalent to the face
 3597 amount of the policy, less any payments made, multiplied by an amount
 3598 equivalent to 85 percent of the most recent investment rate or of the
 3599 equivalent coupon-issue yield announced by the U.S. Treasury for 26-
 3600 week Treasury securities.

3601
 3602 11) The Agency must give written consent to the owner or operator that the
 3603 owner or operator may terminate the insurance policy when either of the
 3604 following occurs:

- 3605 A) An owner or operator substitutes alternative financial assurance, as
 3606 specified in this Section; or
- 3607 B) The Agency releases the owner or operator from the requirements
 3608 of this Section in accordance with subsection (i) of this Section.

3609
 3610
 3611 f) Financial test and corporate guarantee for post-closure care.

3612 1) An owner or operator may satisfy the requirements of this Section by
 3613 demonstrating that it passes a financial test as specified in this subsection
 3614 (f). To pass this test the owner or operator must meet the criteria of either
 3615 subsection (f)(1)(A) or (f)(1)(B) of this Section:

- 3616 A) The owner or operator must have the following:
- 3617 i) Two of the following three ratios: a ratio of total liabilities
 3618 to net worth less than 2.0; a ratio of the sum of net income
 3619 plus depreciation, depletion and amortization to total
 3620 liabilities greater than 0.1; and a ratio of current assets to
 3621 current liabilities greater than 1.5;
- 3622 ii) Net working capital and tangible net worth each at least six
 3623 times the sum of the current closure and post-closure cost
 3624 estimates and the current plugging and abandonment cost
 3625 estimates;
- 3626 iii) Tangible net worth of at least \$10 million; and
- 3627 iv) Assets in the United States amounting to at least 90 percent
 3628 of its total assets or at least six times the sum of the current
 3629 closure and post-closure cost estimates and the current
 3630 plugging and abandonment cost estimates.

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

- 2) The phrase "current closure and post-closure cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see Section 724.251). The phrase "current plugging and abandonment cost estimates," as used in subsection (f)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).

- 3) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251;
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:
 - i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived

- 3681 from the independently audited, year-end financial
 3682 statements for the latest fiscal year with the amounts in
 3683 such financial statements; and
 3684
- 3685 ii) In connection with that procedure, no matters came to the
 3686 accountant's attention that caused the accountant to believe
 3687 that the specified data should be adjusted.
 3688
- 3689 4) An owner or operator of a new facility must submit the items specified in
 3690 subsection (f)(3) of this Section to the Agency at least 60 days before the
 3691 date on which hazardous waste is first received for disposal.
 3692
- 3693 5) After the initial submission of items specified in subsection (f)(3) of this
 3694 Section, the owner or operator must send updated information to the
 3695 Agency within 90 days after the close of each succeeding fiscal year. This
 3696 information must consist of all three items specified in subsection (f)(3) of
 3697 this Section.
 3698
- 3699 6) If the owner or operator no longer meets the requirements of subsection
 3700 (f)(1) of this Section, the owner or operator must send notice to the
 3701 Agency of intent to establish alternative financial assurance, as specified
 3702 in this Section. The notice must be sent by certified mail within 90 days
 3703 after the end of the fiscal year for which the year-end financial data show
 3704 that the owner or operator no longer meets the requirements the owner or
 3705 operator must provide the alternative financial assurance within 120 days
 3706 after the end of such fiscal year.
 3707
- 3708 7) Based on a reasonable belief that the owner or operator may no longer
 3709 meet the requirements of subsection (f)(1) of this Section, the Agency may
 3710 require reports of financial condition at any time from the owner or
 3711 operator in addition to those specified in subsection (f)(3) of this Section.
 3712 If the Agency finds, on the basis of such reports or other information, that
 3713 the owner or operator no longer meets the requirements of subsection
 3714 (f)(1) of this Section, the owner or operator must provide alternative
 3715 financial assurance, as specified in this Section, within 30 days after
 3716 notification of such a finding.
 3717
- 3718 8) The Agency may disallow use of this test on the basis of qualifications in
 3719 the opinion expressed by the independent certified public accountant in the
 3720 accountant's report on examination of the owner's or operator's financial
 3721 statements (see subsection (f)(3)(B) of this Section). An adverse opinion
 3722 or a disclaimer of opinion will be cause for disallowance. The Agency
 3723 must evaluate other qualifications on an individual basis. The owner or

- 3724 operator must provide alternative financial assurance, as specified in this
 3725 Section, within 30 days after notification of the disallowance.
 3726
- 3727 9) During the period of post-closure care, the Agency must approve a
 3728 decrease in the current post-closure cost estimate for which this test
 3729 demonstrates financial assurance if the owner or operator demonstrates to
 3730 the Agency that the amount of the cost estimate exceeds the remaining
 3731 cost of post-closure care.
 3732
- 3733 10) The owner or operator is no longer required to submit the items specified
 3734 in subsection (f)(3) of this Section when either of the following occurs:
 3735
- 3736 A) An owner or operator substitutes alternative financial assurance, as
 3737 specified in this Section; or
 3738
- 3739 B) The Agency releases the owner or operator from the requirements
 3740 of this Section in accordance with subsection (i) of this Section.
 3741
- 3742 11) An owner or operator may meet the requirements of this Section by
 3743 obtaining a written guarantee, hereafter referred to as "corporate
 3744 guarantee." The guarantor must be the direct or higher-tier parent
 3745 corporation of the owner or operator, a firm whose parent corporation is
 3746 also the parent corporation of the owner or operator, or a firm with a
 3747 "substantial business relationship" with the owner or operator. The
 3748 guarantor must meet the requirements for owners or operators in
 3749 subsections (f)(1) through (f)(9), and must comply with the terms of the
 3750 corporate guarantee. The wording of the corporate guarantee must be that
 3751 specified in Section 724.251. A certified copy of the corporate guarantee
 3752 must accompany the items sent to the Agency, as specified in subsection
 3753 (f)(3) of this Section. One of these items must be the letter from the
 3754 guarantor's chief financial officer. If the guarantor's parent corporation is
 3755 also the parent corporation of the owner or operator, the letter must
 3756 describe the value received in consideration of the guarantee. If the
 3757 guarantor is a firm with a "substantial business relationship" with the
 3758 owner or operator, this letter must describe this "substantial business
 3759 relationship" and the value received in consideration of the guarantee. The
 3760 terms of the corporate guarantee must provide as follows:
 3761
- 3762 A) That if the owner or operator fails to perform post-closure care of a
 3763 facility covered by the corporate guarantee in accordance with the
 3764 post-closure plan and other permit requirements whenever required
 3765 to do so, the guarantor will do so or establish a trust fund as
 3766 specified in subsection (a) of this Section in the name of the owner

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or operator.

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

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

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

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

3810 available under the mechanism.

3811
 3812 i) Release of the owner or operator from the requirements of this Section. Within
 3813 60 days after receiving certifications from the owner or operator and a qualified
 3814 Professional Engineer ~~an independent registered professional engineer~~ that the
 3815 post-closure care period has been completed for a hazardous waste disposal unit
 3816 in accordance with the approved plan, the Agency must notify the owner or
 3817 operator that it is no longer required to maintain financial assurance for post-
 3818 closure care of that unit, unless the Agency determines that post-closure care has
 3819 not been in accordance with the approved post-closure plan. The Agency must
 3820 provide the owner or operator with a detailed written statement of any such
 3821 determination that post-closure care has not been in accordance with the approved
 3822 post-closure plan.

3823
 3824 j) Appeal. The following Agency actions are deemed to be permit modifications or
 3825 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 3826 702.184(e)(3)):

- 3827
- 3828 1) An increase in or a refusal to decrease the amount of a bond, letter of
 3829 credit, or insurance;
- 3830
- 3831 2) Requiring alternative assurance upon a finding that an owner or operator
 3832 or parent corporation no longer meets a financial test.
- 3833

3834 (Source: Amended at 32 Ill. Reg. _____, effective _____)

3835
 3836 **Section 724.247 Liability Requirements**

3837
 3838 a) Coverage for sudden accidental occurrences. An owner or operator of a
 3839 hazardous waste treatment, storage, or disposal facility, or a group of such
 3840 facilities, must demonstrate financial responsibility for bodily injury and property
 3841 damage to third parties caused by sudden accidental occurrences arising from
 3842 operations of the facility or group of facilities. The owner or operator must have
 3843 and maintain liability coverage for sudden accidental occurrences in the amount
 3844 of at least \$1 million per occurrence with an annual aggregate of at least \$2
 3845 million, exclusive of legal defense costs. This liability coverage may be
 3846 demonstrated as specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or
 3847 (a)(6) of this Section:

- 3848
- 3849 1) An owner or operator may demonstrate the required liability coverage by
 3850 having liability insurance, as specified in this subsection (a).
- 3851
- 3852 A) Each insurance policy must be amended by attachment of the

3853 Hazardous Waste Facility Liability Endorsement or evidenced by a
3854 Certificate of Liability Insurance. The wording of the endorsement
3855 and of the certificate of insurance must be that specified in Section
3856 724.251. ~~The wording of the certificate of insurance must be that~~
3857 ~~specified in Section 724.251.~~The owner or operator must submit a
3858 signed duplicate original of the endorsement or the certificate of
3859 insurance to the Agency. If requested by the Agency, the owner or
3860 operator must provide a signed duplicate original of the insurance
3861 policy. An owner or operator of a new facility must submit the
3862 signed duplicate original of the Hazardous Waste Facility Liability
3863 Endorsement or the Certificate of Liability Insurance to the
3864 Agency at least 60 days before the date on which hazardous waste
3865 is first received for treatment, storage, or disposal. The insurance
3866 must be effective before this initial receipt of hazardous waste.
3867

3868 B) Each insurance policy must be issued by an insurer that is licensed
3869 by the Illinois Department of Insurance.
3870

- 3871 2) An owner or operator may meet the requirements of this Section by
3872 passing a financial test or using the guarantee for liability coverage, as
3873 specified in subsections (f) and (g) of this Section.
3874
- 3875 3) An owner or operator may meet the requirements of this Section by
3876 obtaining a letter of credit for liability coverage, as specified in subsection
3877 (h) of this Section.
3878
- 3879 4) An owner or operator may meet the requirements of this Section by
3880 obtaining a surety bond for liability coverage, as specified in subsection (i)
3881 of this Section.
3882
- 3883 5) An owner or operator may meet the requirements of this Section by
3884 obtaining a trust fund for liability coverage, as specified in subsection (j)
3885 of this Section.
3886
- 3887 6) An owner or operator may demonstrate the required liability coverage
3888 through the use of combinations of insurance, financial test, guarantee,
3889 letter of credit, surety bond, and trust fund, except that the owner or
3890 operator may not combine a financial test covering part of the liability
3891 coverage requirement with a guarantee unless the financial statement of
3892 the owner or operator is not consolidated with the financial statement of
3893 the guarantor. The amounts of coverage demonstrated must total at least
3894 the minimum amounts required by this Section. If the owner or operator
3895 demonstrates the required coverage through the use of a combination of

3896 financial assurances pursuant to this subsection (a), the owner or operator
 3897 must specify at least one such assurance as "primary" coverage and must
 3898 specify other such assurance as "excess" coverage.
 3899

- 3900 7) An owner or operator must notify the Agency within 30 days whenever
 3901 any of the following occurs:
 3902
 3903 A) A claim results in a reduction in the amount of financial assurance
 3904 for liability coverage provided by a financial instrument authorized
 3905 in subsections (a)(1) through (a)(6) of this Section;
 3906
 3907 B) A Certification of Valid Claim for bodily injury or property
 3908 damages caused by sudden or non-sudden accidental occurrence
 3909 arising from the operation of a hazardous waste treatment, storage,
 3910 or disposal facility is entered between the owner or operator and
 3911 third-party claimant for liability coverage pursuant to subsections
 3912 (a)(1) through (a)(6) of this Section; or
 3913
 3914 C) A final court order establishing a judgement for bodily injury or
 3915 property damage caused by a sudden or non-sudden accidental
 3916 occurrence arising from the operation of a hazardous waste
 3917 treatment, storage, or disposal facility is issued against the owner
 3918 or operator or an instrument that is providing financial assurance
 3919 for liability coverage pursuant to subsections (a)(1) through (a)(6)
 3920 of this Section.
 3921

3922 b) Coverage for nonsudden accidental occurrences. An owner or operator of a
 3923 surface impoundment, landfill, land treatment facility, or disposal miscellaneous
 3924 unit that is used to manage hazardous waste, or a group of such facilities, must
 3925 demonstrate financial responsibility for bodily injury and property damage to
 3926 third parties caused by nonsudden accidental occurrences arising from operations
 3927 of the facility or group of facilities. The owner or operator must have and
 3928 maintain liability coverage for nonsudden accidental occurrences in the amount of
 3929 at least \$3 million per occurrence with an annual aggregate of at least \$6 million,
 3930 exclusive of legal defense costs. An owner or operator meeting the requirements
 3931 of this Section may combine the required per-occurrence coverage levels for
 3932 sudden and nonsudden accidental occurrences into a single per-occurrence level,
 3933 and combine the required annual aggregate coverage levels for sudden and
 3934 nonsudden accidental occurrences into a single annual aggregate level. Owners or
 3935 operators who combine coverage levels for sudden and nonsudden accidental
 3936 occurrences must maintain liability coverage in the amount of at least \$4 million
 3937 per occurrence and \$8 million annual aggregate. This liability coverage may be
 3938 demonstrated as specified in subsections (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), or

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(b)(6) of this Section:

- 1) An owner or operator may demonstrate the required liability coverage by having liability insurance, as specified in this subsection (b).
 - A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be that specified in Section 724.251. The wording of the certificate of insurance must be that specified in Section 724.251. The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy. An owner or operator of a new facility must submit the signed duplicate original of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste.
 - B) Each insurance policy must be issued by an insurer that is licensed by the Illinois Department of Insurance.
- 2) An owner or operator may meet the requirements of this Section by passing a financial test or using the guarantee for liability coverage, as specified in subsections (f) and (g) of this Section.
- 3) An owner or operator may meet the requirements of this Section by obtaining a letter of credit for liability coverage, as specified in subsection (h) of this Section.
- 4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for liability coverage, as specified in subsection (i) of this Section.
- 5) An owner or operator may meet the requirements of this Section by obtaining a trust fund for liability coverage, as specified in subsection (j) of this Section.
- 6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or

3982 operator may not combine a financial test covering part of the liability
 3983 coverage requirement with a guarantee unless the financial statement of
 3984 the owner or operator is not consolidated with the financial statement of
 3985 the guarantor. The amounts of coverage demonstrated must total at least
 3986 the minimum amounts required by this Section. If the owner or operator
 3987 demonstrates the required coverage through the use of a combination of
 3988 financial assurances pursuant to this subsection (b), the owner or operator
 3989 must specify at least one such assurance as "primary" coverage and must
 3990 specify other such assurance as "excess" coverage.
 3991

- 3992 7) An owner or operator must notify the Agency within 30 days whenever
 3993 any of the following occurs:
 3994
- 3995 A) A claim results in a reduction in the amount of financial assurance
 3996 for liability coverage provided by a financial instrument authorized
 3997 in subsections (b)(1) through (b)(6) of this Section;
 3998
 - 3999 B) A Certification of Valid Claim for bodily injury or property
 4000 damages caused by sudden or non-sudden accidental occurrence
 4001 arising from the operation of a hazardous waste treatment, storage,
 4002 or disposal facility is entered between the owner or operator and
 4003 third-party claimant for liability coverage pursuant to subsections
 4004 (b)(1) through (b)(6) of this Section; or
 4005
 - 4006 C) A final court order establishing a judgment for bodily injury or
 4007 property damage caused by a sudden or non-sudden accidental
 4008 occurrence arising from the operation of a hazardous waste
 4009 treatment, storage, or disposal facility is issued against the owner
 4010 or operator or an instrument that is providing financial assurance
 4011 for liability coverage pursuant to subsections (b)(1) through (b)(6)
 4012 of this Section.
 4013

- 4014 c) Request for adjusted level of required liability coverage. If an owner or operator
 4015 demonstrates to the Agency that the levels of financial responsibility required by
 4016 subsection (a) or (b) of this Section are not consistent with the degree and
 4017 duration of risk associated with treatment, storage, or disposal at the facility or
 4018 group of facilities, the owner or operator may obtain an adjusted level of required
 4019 liability coverage from the Agency. The request for an adjusted level of required
 4020 liability coverage must be submitted to the Agency as part of the application
 4021 pursuant to 35 Ill. Adm. Code 703.182 for a facility that does not have a permit,
 4022 or pursuant to the procedures for permit modification pursuant to 35 Ill. Adm.
 4023 Code 705.128 for a facility that has a permit. If granted, the modification will
 4024 take the form of an adjusted level of required liability coverage, such level to be

4025 based on the Agency assessment of the degree and duration of risk associated
 4026 with the ownership or operation of the facility or group of facilities. The Agency
 4027 may require an owner or operator who requests an adjusted level of required
 4028 liability coverage to provide such technical and engineering information as is
 4029 necessary to determine a level of financial responsibility other than that required
 4030 by subsection (a) or (b) of this Section. Any request for an adjusted level of
 4031 required liability coverage for a permitted facility will be treated as a request for a
 4032 permit modification pursuant to 35 Ill. Adm. Code 703.271(e)(3) and 705.128.
 4033

4034 d) Adjustments by the Agency. If the Agency determines that the levels of financial
 4035 responsibility required by subsection (a) or (b) of this Section are not consistent
 4036 with the degree and duration of risk associated with treatment, storage, or disposal
 4037 at the facility or group of facilities, the Agency must adjust the level of financial
 4038 responsibility required pursuant to subsection (a) or (b) of this Section as may be
 4039 necessary to adequately protect human health and the environment. This adjusted
 4040 level must be based on the Agency's assessment of the degree and duration of risk
 4041 associated with the ownership or operation of the facility or group of facilities. In
 4042 addition, if the Agency determines that there is a significant risk to human health
 4043 and the environment from nonsudden accidental occurrences resulting from the
 4044 operations of a facility that is not a surface impoundment, landfill, or land
 4045 treatment facility, the Agency may require that an owner or operator of the facility
 4046 comply with subsection (b) of this Section. An owner or operator must furnish to
 4047 the Agency, within a time specified by the Agency in the request, which must be
 4048 not be less than 30 days, any information that the Agency requests to determine
 4049 whether cause exists for such adjustments of level or type of coverage. Any
 4050 adjustment of the level or type of coverage for a facility that has a permit will be
 4051 treated as a permit modification pursuant to 35 Ill. Adm. Code 703.271(e)(3) and
 4052 705.128.
 4053

4054 e) Period of coverage. Within 60 days after receiving certifications from the owner
 4055 or operator and a qualified Professional Engineer ~~an independent registered~~
 4056 ~~professional engineer~~ that final closure has been completed in accordance with the
 4057 approved closure plan, the Agency must notify the owner or operator in writing
 4058 that the owner or operator is no longer required by this Section to maintain
 4059 liability coverage for that facility, unless the Agency determines that closure has
 4060 not been in accordance with the approved closure plan.
 4061

4062 f) Financial test for liability coverage.

4063
 4064 1) An owner or operator may satisfy the requirements of this Section by
 4065 demonstrating that it passes a financial test as specified in this subsection
 4066 (f). To pass this test the owner or operator must meet the criteria of
 4067 subsection (f)(1)(A) or (f)(1)(B) of this Section:

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- A) The owner or operator must have the following:
 - i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test;
 - ii) Tangible net worth of at least \$10 million; and
 - iii) Assets in the United States amounting to either of the following: at least 90 percent of the total assets; or at least six times the amount of liability coverage to be demonstrated by this test.

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

 - 2) The phrase "amount of liability coverage" as used in subsection (f)(1) of this Section, refers to the annual aggregate amounts for which coverage is required pursuant to subsections (a) and (b) of this Section.

 - 3) To demonstrate that it meets this test, the owner or operator must submit the following three items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by Sections 724.243(f) and 724.245(f) and 35 Ill. Adm. Code 725.243(e) and 725.245(e), and liability coverage, it must submit the letter

4111 specified in Section 724.251 to cover both forms of financial
4112 responsibility; a separate letter, as specified in Section 724.251, is
4113 not required.
4114

4115 B) A copy of the independent certified public accountant's report on
4116 examination of the owner's or operator's financial statements for
4117 the latest completed fiscal year.
4118

4119 C) A special report from the owner's or operator's independent
4120 certified public accountant to the owner or operator stating the
4121 following:
4122

4123 i) The accountant has compared the data that the letter from
4124 the chief financial officer specifies as having been derived
4125 from the independently audited, year-end financial
4126 statements for the latest fiscal year with the amounts in
4127 such financial statements; and
4128

4129 ii) In connection with that procedure, no matters came to the
4130 accountant's attention that caused the accountant to believe
4131 that the specified data should be adjusted.
4132

4133 4) An owner or operator of a new facility must submit the items specified in
4134 subsection (f)(3) of this Section to the Agency at least 60 days before the
4135 date on which hazardous waste is first received for treatment, storage, or
4136 disposal.
4137

4138 5) After the initial submission of items specified in subsection (f)(3) of this
4139 Section, the owner or operator must send updated information to the
4140 Agency within 90 days after the close of each succeeding fiscal year. This
4141 information must consist of all three items specified in subsection (f)(3) of
4142 this Section.
4143

4144 6) If the owner or operator no longer meets the requirements of subsection
4145 (f)(1) of this Section, the owner or operator must obtain insurance, a letter
4146 of credit, a surety bond, a trust fund, or a guarantee for the entire amount
4147 of required liability coverage as specified in this Section. Evidence of
4148 insurance must be submitted to the Agency within 90 days after the end of
4149 the fiscal year for which the year-end financial data show that the owner
4150 or operator no longer meets the test requirements.
4151

4152 7) The Agency may disallow use of this test on the basis of qualifications in
4153 the opinion expressed by the independent certified public accountant in the

4154 accountant's report on examination of the owner's or operator's financial
 4155 statements (see subsection (f)(3)(B) of this Section). An adverse opinion
 4156 or a disclaimer of opinion will be cause for disallowance. The Agency
 4157 must evaluate other qualifications on an individual basis. The owner or
 4158 operator must provide evidence of insurance for the entire amount of
 4159 required liability coverage, as specified in this Section, within 30 days
 4160 after notification of disallowance.

4161

g) Guarantee for liability coverage.

4163

4164

1) Subject to subsection (g)(2) of this Section, an owner or operator may
 4165 meet the requirements of this Section by obtaining a written guarantee,
 4166 referred to as a "guarantee." The guarantor must be the direct or higher-
 4167 tier parent corporation of the owner or operator, a firm whose parent
 4168 corporation is also the parent corporation of the owner or operator, or a
 4169 firm with a "substantial business relationship" with the owner or operator.
 4170 The guarantor must meet the requirements for owners and operators in
 4171 subsections (f)(1) through (f)(6) of this Section. The wording of the
 4172 guarantee must be that specified in Section 724.251. A certified copy of
 4173 the guarantee must accompany the items sent to the Agency, as specified
 4174 in subsection (f)(3) of this Section. One of these items must be the letter
 4175 from the guarantor's chief financial officer. If the guarantor's parent
 4176 corporation is also the parent corporation of the owner or operator, this
 4177 letter must describe the value received in consideration of the guarantee.
 4178 If the guarantor is a firm with a "substantial business relationship" with the
 4179 owner or operator, this letter must describe this "substantial business
 4180 relationship" and the value received in consideration of the guarantee.
 4181 The terms of the guarantee must provide for the following:

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4183

A) If the owner or operator fails to satisfy a judgment based on a
 4184 determination of liability for bodily injury or property damage to
 4185 third parties caused by sudden or nonsudden accidental
 4186 occurrences (or both as the case may be) arising from the operation
 4187 of facilities covered by this guarantee, or if the owner or operator
 4188 fails to pay an amount agreed to in settlement of claims arising
 4189 from or alleged to arise from such injury or damage, that the
 4190 guarantor will do so up to the limits of coverage.

4191

4192

B) That the guarantee will remain in force unless the guarantor sends
 4193 notice of cancellation by certified mail to the owner or operator
 4194 and to the Agency. The guarantee must not be terminated unless
 4195 and until the Agency approves alternative liability coverage
 4196 complying with Section 724.247 or 35 Ill. Adm. Code 725.247.

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- 2) The guarantor must execute the guarantee in Illinois. The guarantee must be accompanied by a letter signed by the guarantor that states as follows:
 - A) The guarantee was signed in Illinois by an authorized agent of the guarantor;
 - B) The guarantee is governed by Illinois law; and
 - C) The name and address of the guarantor's registered agent for service of process.
 - 3) The guarantor must have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 [805 ILCS 5/5.05] or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105/105.05].
 - h) Letter of credit for liability coverage.
 - 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (h), and submitting a copy of the letter of credit to the Agency.
 - 2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
 - 3) The wording of the letter of credit must be that specified in Section 724.251.
 - 4) An owner or operator who uses a letter of credit to satisfy the requirements of this Section may also establish a trust fund. Under the terms of such a letter of credit, all amounts paid pursuant to a draft by the trustee of the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act [205 ILCS 620].
 - 5) The wording of the standby trust fund must be identical to that specified in Section 724.251(n).

- 4240
- 4241 i) Surety bond for liability coverage.
- 4242
- 4243 1) An owner or operator may satisfy the requirements of this Section by
- 4244 obtaining a surety bond that conforms to the requirements of this
- 4245 subsection (i) and submitting a copy of the bond to the Agency.
- 4246
- 4247 2) The surety company issuing the bond must be licensed by the Illinois
- 4248 Department of Insurance.
- 4249
- 4250 3) The wording of the surety bond must be that specified in Section 724.251.
- 4251
- 4252 j) Trust fund for liability coverage.
- 4253
- 4254 1) An owner or operator may satisfy the requirements of this Section by
- 4255 establishing a trust fund that conforms to the requirements of this
- 4256 subsection (j) and submitting a signed, duplicate original of the trust
- 4257 agreement to the Agency.
- 4258
- 4259 2) The trustee must be an entity that has the authority to act as a trustee and
- 4260 whose trust operations are regulated and examined by the Illinois
- 4261 Commissioner of Banks and Trust Companies, or who complies with the
- 4262 Corporate Fiduciary Act [205 ILCS 620].
- 4263
- 4264 3) The trust fund for liability coverage must be funded for the full amount of
- 4265 the liability coverage to be provided by the trust fund before it may be
- 4266 relied upon to satisfy the requirements of this Section. If at any time after
- 4267 the trust fund is created the amount of funds in the trust fund is reduced
- 4268 below the full amount of liability coverage to be provided, the owner or
- 4269 operator, by the anniversary of the date of establishment of the fund, must
- 4270 either add sufficient funds to the trust fund to cause its value to equal the
- 4271 full amount of liability coverage to be provided, or obtain other financial
- 4272 assurance as specified in this Section to cover the difference. For purposes
- 4273 of this subsection (j), "the full amount of the liability coverage to be
- 4274 provided" means the amount of coverage for sudden and non-sudden
- 4275 accidental occurrences required to be provided by the owner or operator
- 4276 by this Section, less the amount of financial assurance for liability
- 4277 coverage that is being provided by other financial assurance mechanisms
- 4278 being used to demonstrate financial assurance by the owner or operator.
- 4279
- 4280 4) The wording of the trust fund must be that specified in Section 724.251.

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4282 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section 724.274 Inspections

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

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

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

Section 724.275 Containment

- a) Container storage areas must have a containment system that is designed and operated in accordance with subsection (b) of this Section, except as otherwise provided by subsection (c) of this Section;
- b) A containment system must be designed and operated as follows:
 - 1) A base must ~~underlie~~underlay the containers that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.
 - 2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;
 - 3) The containment system must have sufficient capacity to contain 10 percent of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;
 - 4) Run-on into the containment system must be prevented, unless the collection system has sufficient excess capacity in addition to that required in subsection (b)(3) of this Section to contain any run-on that might enter

4326 the system; and

4327
4328 5) Spilled or leaked waste and accumulated precipitation must be removed
4329 from the sump or collection area in as timely a manner as is necessary to
4330 prevent overflow of the collection system.

4331
4332 BOARD NOTE: If the collected material is a hazardous waste, it must be
4333 managed as a hazardous waste in accordance with all applicable requirements of
4334 35 Ill. Adm. Code 722 through 728. If the collected material is discharged
4335 through a point source to waters of the State, it is subject to the National Pollution
4336 Discharge Elimination System (NPDES) permit requirement of Section 12(f) of
4337 the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code
4338 309.102.

4339
4340 c) Storage areas that store containers holding only wastes that do not contain free
4341 liquids need not have a containment system defined by subsection (b) of this
4342 Section, except as provided by subsection (d) of this Section, or provided as
4343 follows:

4344
4345 1) That the storage area is sloped or is otherwise designed and operated to
4346 drain and remove liquid resulting from precipitation, or

4347
4348 2) That the containers are elevated or are otherwise protected from contact
4349 with accumulated liquid.

4350
4351 d) Storage areas that store containers holding the wastes listed below that do not
4352 contain free liquids must have a containment system defined by subsection (b) of
4353 this Section: F020, F021, F022, F023, F026, and F027.

4354
4355 (Source: Amended at 32 Ill. Reg. _____, effective _____)

4356
4357 SUBPART J: TANK SYSTEMS

4358
4359 **Section 724.291 Assessment of Existing Tank System Integrity**

4360
4361 a) For each existing tank system that does not have secondary containment meeting
4362 the requirements of Section 724.293, the owner or operator must determine either
4363 that the tank system is not leaking or that it is unfit for use. Except as provided in
4364 subsection (c) of this Section, the owner or operator must, by January 12, 1988,
4365 obtain and keep on file at the facility a written assessment reviewed and certified
4366 by ~~an independent~~, qualified Professional Engineer~~registered professional~~
4367 engineer, in accordance with 35 Ill. Adm. Code 702.126(d), that attests to the tank
4368 system's integrity.

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- 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;
 - 2) Hazardous characteristics of the wastes that have been and 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 so that the following is true:
 - A) For non-enterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects, and
 - B) For other than non-enterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination that is certified by ~~an independent,~~ qualified Professional Engineer, registered professional engineer in accordance with 35 Ill. Adm. Code 702.126(d), that address cracks, leaks, corrosion, and erosion.
- 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

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 other than a leak test.

4412 this Section, a tank system is found to be leaking or unfit for use, the owner or
4413 operator must comply with the requirements of Section 724.296.
4414

4415 (Source: Amended at 32 Ill. Reg. _____, effective _____)
4416

4417 **Section 724.292 Design and Installation of New Tank Systems or Components**
4418

4419 a) Owners or operators of new tank systems or components must obtain and submit
4420 to the Agency, at time of submittal of Part B information, a written assessment,
4421 reviewed and certified by ~~an independent,~~ qualified Professional
4422 Engineer, registered professional engineer in accordance with 35 Ill. Adm. Code
4423 702.126(d), attesting that the tank system has sufficient structural integrity and is
4424 acceptable for the storing and treating of hazardous waste. The assessment must
4425 show that the foundation, structural support, seams, connections, and pressure
4426 controls (if applicable) are adequately designed and that the tank system has
4427 sufficient structural strength, compatibility with the wastes to be stored or treated
4428 and corrosion protection to ensure that it will not collapse, rupture, or fail. This
4429 assessment, which will be used by the Agency to review and approve or
4430 disapprove the acceptability of the tank system design, must include, at a
4431 minimum, the following information:
4432

- 4433 1) Design standards according to which tanks or the ancillary equipment are
4434 constructed;
4435
4436 2) Hazardous characteristics of the wastes to be handled;
4437
4438 3) For new tank systems or components in which the external shell of a metal
4439 tank or any external metal component of the tank system will be in contact
4440 with the soil or with water, a determination by a corrosion expert of the
4441 following:
4442

4443 A) Factors affecting the potential for corrosion, including but not
4444 limited to the following:
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- 4446 i) Soil moisture content;
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4448 ii) Soil pH;
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4450 iii) Soil sulfide level;
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4452 iv) Soil resistivity;
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4454 v) Structure to soil potential;

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- vi) Influence of nearby underground metal structures (e.g., piping);
 - vii) Existence of stray electric current;
 - viii) Existing corrosion-protection measures (e.g., coating, cathodic protection, etc.); and
- B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:
- i) Corrosion-resistant materials of construction, such as special alloys, fiberglass reinforced plastic, etc.;
 - ii) Corrosion-resistant coating, such as epoxy, fiberglass, etc., with cathodic protection (e.g., impressed current or sacrificial anodes); and
 - iii) Electrical isolation devices, such as insulating joints, flanges, etc.

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

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- 4) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and
 - 5) Design considerations to ensure the following:
 - A) That tank foundations will maintain the load of a full tank;
 - B) That tank systems will be anchored to prevent flotation or

4498 dislodgment where the tank system is placed in a saturated zone, or
4499 is located within a seismic fault zone subject to the standards of
4500 Section 724.118(a); and

4501
4502 C) That tank systems will withstand the effects of frost heave.

4503
4504 b) The owner or operator of a new tank system must ensure that proper handling
4505 procedures are adhered to in order to prevent damage to the system during
4506 installation. Prior to covering, enclosing or placing a new tank system or
4507 component in use, an independent qualified installation inspector or ~~an~~
4508 ~~independent, qualified Professional Engineer~~ registered professional engineer,
4509 either of whom is trained and experienced in the proper installation of tank
4510 systems or components, must inspect the system for the presence of any of the
4511 following items:

- 4512
4513 1) Weld breaks;
4514
4515 2) Punctures;
4516
4517 3) Scrapes of protective coatings;
4518
4519 4) Cracks;
4520
4521 5) Corrosion;
4522
4523 6) Other structural damage or inadequate construction or installation. All
4524 discrepancies must be remedied before the tank system is covered,
4525 enclosed, or placed in use.

4526
4527 c) New tank systems or components that are placed underground and which are
4528 backfilled must be provided with a backfill material that is a noncorrosive,
4529 porous, and homogeneous substance which is installed so that the backfill is
4530 placed completely around the tank and compacted to ensure that the tank and
4531 piping are fully and uniformly supported.

4532
4533 d) All new tanks and ancillary equipment must be tested for tightness prior to being
4534 covered, enclosed or placed in use. If a tank system is found not to be tight, all
4535 repairs necessary to remedy the leaks in the system must be performed prior to the
4536 tank system being covered, enclosed, or placed into use.

4537
4538 e) Ancillary equipment must be supported and protected against physical damage
4539 and excessive stress due to settlement, vibration, expansion, or contraction.
4540

4541 BOARD NOTE: The piping system installation procedures described in
 4542 "Installation of Underground Petroleum Storage Systems," API Recommended
 4543 Practice 1615, or "Chemical Plant and Petroleum Refinery Piping," ASME/ANSI
 4544 Standard B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, and
 4545 "Liquid Petroleum Transportation Piping Systems for Hydrocarbons, Liquid
 4546 Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI Standard
 4547 B31.4-1986, as supplemented by B31.4a-1987, each incorporated by reference in
 4548 35 Ill. Adm. Code 720.111(a), may be used where applicable, as guidelines for
 4549 proper installation of piping systems.

4550
 4551 f) The owner or operator must provide the type and degree of corrosion protection
 4552 recommended by an independent corrosion expert, based on the information
 4553 provided under subsection (a)(3) of this Section, or other corrosion protection if
 4554 the Agency determines that other corrosion protection is necessary to ensure the
 4555 integrity of the tank system during use of the tank system. The installation of a
 4556 corrosion protection system that is field fabricated must be supervised by an
 4557 independent corrosion expert to ensure proper installation.
 4558

4559 g) The owner or operator must obtain and keep on file at the facility written
 4560 statements by those persons required to certify the design of the tank system and
 4561 supervise the installation of the tank system in accordance with the requirements
 4562 of subsections (b) through (f) of this Section, that attest that the tank system was
 4563 properly designed and installed and that repairs, pursuant to subsections (b) and
 4564 (d) of this Section, were performed. These written statements must also include
 4565 the certification statement, as required in 35 Ill. Adm. Code 702.126(d).
 4566

4567 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 4568

4569 **Section 724.293 Containment and Detection of Releases**
 4570

4571 a) In order to prevent the release of hazardous waste or hazardous constituents to the
 4572 environment, secondary containment that meets the requirements of this Section
 4573 must be provided (except as provided in subsections (f) and (g) of this Section).
 4574

4575 1) For a new or existing tank system or component, prior to their being put
 4576 into service.;

4577
 4578 2) ~~For all existing tank systems used to store or treat Hazardous Waste~~
 4579 ~~Numbers F020, F021, F022, F023, F026, or F027, as defined in 35 Ill.~~
 4580 ~~Adm. Code 721.131, within two years after January 12, 1987;~~

4581
 4582 3) ~~For those existing tank systems of known and documented age, within two~~
 4583 ~~years after January 12, 1987, or when the tank system has reached 15~~

- 4584 years of age, whichever comes later;
4585
4586 4) For those existing tank systems for which the age cannot be documented,
4587 within eight years of January 12, 1987; but if the age of the facility is
4588 greater than seven years, secondary containment must be provided by the
4589 time the facility reaches 15 years of age, or within two years of January
4590 12, 1987, whichever comes later; and
4591
4592 ~~25)~~ For a tank systemsystems that storesstore or treatstreat materials that
4593 become hazardous wastes subsequent to January 12, 1987, within two
4594 years after thethe time intervals required in subsections (a)(1) through
4595 (a)(4) of this Section, except that the date that a material becomes a
4596 hazardous waste listing, or when the tank system has reached 15 years of
4597 age, whichever comes latermust be used in place of January 12, 1987.
4598
4599 b) Secondary containment systems must fulfill the following:
4600
4601 1) It must be designed, installed, and operated to prevent any migration of
4602 wastes or accumulated liquid out of the system to the soil, groundwater, or
4603 surface water at any time during the use of the tank system; and
4604
4605 2) It must be capable of detecting and collecting releases and accumulated
4606 liquids until the collected material is removed.
4607
4608 c) To meet the requirements of subsection (b) of this Section, secondary containment
4609 systems must, at a minimum, fulfill the following:
4610
4611 1) It must be constructed of or lined with materials that are compatible with
4612 the wastes to be placed in the tank system and must have sufficient
4613 strength and thickness to prevent failure owing to pressure gradients
4614 (including static head and external hydrological forces), physical contact
4615 with the waste to which it is exposed, climatic conditions, and the stress of
4616 daily operation (including stresses from nearby vehicular traffic);
4617
4618 2) It must be placed on a foundation or base capable of providing support to
4619 the secondary containment system, resistance to pressure gradients above
4620 and below the system, and capable of preventing failure due to settlement,
4621 compression or uplift;
4622
4623 3) It must be provided with a leak-detection system that is designed and
4624 operated so that it will detect the failure of either the primary or secondary
4625 containment structure or the presence of any release of hazardous waste or
4626 accumulated liquid in the secondary containment system within 24 hours,

4627 or at the earliest practicable time if the owner or operator demonstrates, by
4628 way of permit application, to the Agency that existing detection
4629 technologies or site conditions will not allow detection of a release within
4630 24 hours; and

4631
4632 4) It must be sloped or otherwise designed or operated to drain and remove
4633 liquids resulting from leaks, spills, or precipitation. Spilled or leaked
4634 waste and accumulated precipitation must be removed from the secondary
4635 containment system within 24 hours, or in as timely a manner as is
4636 possible to prevent harm to human health and the environment, if the
4637 owner or operator demonstrates to the Agency, by way of permit
4638 application, that removal of the released waste or accumulated
4639 precipitation cannot be accomplished within 24 hours.

4640
4641 BOARD NOTE: If the collected material is a hazardous waste under 35
4642 Ill. Adm. Code 721, it is subject to management as a hazardous waste in
4643 accordance with all applicable requirements of 35 Ill. Adm. Code 722
4644 through 728. If the collected material is discharged through a point source
4645 to waters of the State, it is subject to the NPDES permit requirement of
4646 Section 12(f) of the Environmental Protection Act and 35 Ill. Adm. Code
4647 309. If discharged to a Publicly Owned Treatment Work (POTW), it is
4648 subject to the requirements of 35 Ill. Adm. Code 307 and 310. If the
4649 collected material is released to the environment, it may be subject to the
4650 reporting requirements of 35 Ill. Adm. Code 750.410 and federal 40 CFR
4651 302.6.

4652
4653 d) Secondary containment for tanks must include one or more of the following
4654 devices:

- 4655
4656 1) A liner (external to the tank);
4657
4658 2) A vault;
4659
4660 3) A double-walled tank; or
4661
4662 4) An equivalent device, as approved by the Board in an adjusted standards
4663 proceeding.

4664
4665 e) In addition to the requirements of subsections (b), (c), and (d) of this Section,
4666 secondary containment systems must satisfy the following requirements:

- 4667
4668 1) An external liner system must fulfill the following:
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- A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within its boundary.
 - B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system, unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.
 - C) It must be free of cracks or gaps.
 - D) It must be designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tanks (i.e., it is capable of preventing lateral as well as vertical migration of the waste).
- 2) A vault system must fulfill the following:
- A) It must be designed or operated to contain 100 percent of the capacity of the largest tank within the vault system's boundary;
 - B) It must be designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
 - C) It must be constructed with chemical-resistant water stops in place at all joints (if any);
 - D) It must be provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
 - E) It must be provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated fulfills the following:
 - i) It meets the definition of ignitable waste under 35 Ill. Adm. Code 721.121; or
 - ii) It meets the definition of reactive waste under 35 Ill. Adm. Code 721.123, and may form an ignitable or explosive

vapor;

F) It must be provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

3) A double-walled tank must fulfill the following:

A) It must be designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

B) It must be protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

C) It must be provided with a built-in continuous leak detection system capable of detecting a release within 24 hours, or at the earliest practicable time, if the owner or operator demonstrates, by way of permit application, to the Agency that the existing detection technology or site conditions would not allow detection of a release within 24 hours.

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

f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping, etc.) that meets the requirements of subsections (b) and (c) of this Section, except as follows:

1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and

4) Pressurized aboveground piping systems with automatic shut-off devices

4756 (e.g., excess flow check valves, flow metering shutdown devices, loss of
4757 pressure actuated shut-off devices, etc.) that are visually inspected for
4758 leaks on a daily basis.
4759

4760 g) Pursuant to Section 28.1 of the Environmental Protection Act [415 ILCS 5/28.1],
4761 and in accordance with 35 Ill. Adm. Code 101 and 104, an adjusted standard will
4762 be granted by the Board regarding alternative design and operating practices only
4763 if the Board finds either that the alternative design and operating practices,
4764 together with location characteristics, will prevent the migration of any hazardous
4765 waste or hazardous constituents into the groundwater or surface water at least as
4766 effectively as secondary containment during the active life of the tank system, or
4767 that in the event of a release that does migrate to groundwater or surface water, no
4768 substantial present or potential hazard will be posed to human health or the
4769 environment. New underground tank systems may not receive an adjusted
4770 standard from the secondary containment requirements of this Section through a
4771 justification in accordance with subsection (g)(2) of this Section.
4772

4773 1) When determining whether to grant alternative design and operating
4774 practices based on a demonstration of equivalent protection of
4775 groundwater and surface water, the Board will consider whether the
4776 petitioner has justified an adjusted standard based on the following factors:
4777

- 4778 A) The nature and quantity of the wastes;
- 4779 B) The proposed alternative design and operation;
- 4780 C) The hydrogeologic setting of the facility, including the thickness of
4781 soils present between the tank system and groundwater; and
- 4782 D) All other factors that would influence the quality and mobility of
4783 the hazardous constituents and the potential for them to migrate to
4784 groundwater or surface water.

4785 2) When determining whether to grant alternative design and operating
4786 practices based on a demonstration of no substantial present or potential
4787 hazard, the Board will consider whether the petitioner has justified an
4788 adjusted standard based on the following factors:
4789

- 4790 A) The potential adverse effects on groundwater, surface water and
4791 land quality taking into account, considering the following:
4792
 - 4793 i) The physical and chemical characteristics of the waste in
4794 the tank system, including its potential for migration;

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- ii) The hydrogeological characteristics of the facility and surrounding land;
 - iii) The potential for health risk caused by human exposure to waste constituents;
 - iv) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
 - v) The persistence and permanence of the potential adverse effects.
- B) The potential adverse effects of a release on groundwater quality, taking into account;
- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The proximity and withdrawal rates of groundwater users;
 - iii) The current and future uses of groundwater in the area; and
 - iv) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.
- C) The potential adverse effects of a release on surface water quality, taking the following into account:
- i) The quantity and quality of groundwater and the direction of groundwater flow;
 - ii) The patterns of rainfall in the region;
 - iii) The proximity of the tank system to surface waters;
 - iv) The current and future uses of surface waters in the area and water quality standards established for those surface waters; and
 - v) The existing quality of surface water, including other

- 4842 sources of contamination and the cumulative impact on
4843 surface water quality.
4844
- 4845 D) The potential adverse effect of a release on the land surrounding
4846 the tank system, taking the following into account:
4847
- 4848 i) The patterns of rainfall in the region; and
4849
4850 ii) The current and future uses of the surrounding land.
4851
- 4852 3) The owner or operator of a tank system, for which alternative design and
4853 operating practices had been granted in accordance with the requirements
4854 of subsection (g)(1) of this Section, at which a release of hazardous waste
4855 has occurred from the primary tank system but which has not migrated
4856 beyond the zone of engineering control (as established in the alternative
4857 design and operating practices), must do the following:
4858
- 4859 A) It must comply with the requirements of Section 724.296, except
4860 Section 724.296(d); and
4861
- 4862 B) It must decontaminate or remove contaminated soil to the extent
4863 necessary to do the following:
4864
- 4865 i) Enable the tank system for which the alternative design and
4866 operating practices were granted to resume operation with
4867 the capability for the detection of releases at least
4868 equivalent to the capability it had prior to the release; and
4869
4870 ii) Prevent the migration of hazardous waste or hazardous
4871 constituents to groundwater or surface water; and
4872
- 4873 C) If contaminated soil cannot be removed or decontaminated in
4874 accordance with subsection (g)(3)(B) of this Section, the owner or
4875 operator must comply with the requirement of Section 724.297(b).
4876
- 4877 4) The owner or operator of a tank system, for which alternative design and
4878 operating practices had been granted in accordance with the requirements
4879 of subsection (g)(1) of this Section, at which a release of hazardous waste
4880 has occurred from the primary tank system and which has migrated
4881 beyond the zone of engineering control (as established in the alternative
4882 design and operating practices), must do the following:
4883
- 4884 A) Comply with the requirements of Section 724.296(a), (b), (c), and

- 4885 (d); and
4886
4887 B) Prevent the migration of hazardous waste or hazardous constituents
4888 to groundwater or surface water, if possible, and decontaminate or
4889 remove contaminated soil. If contaminated soil cannot be
4890 decontaminated or removed, or if groundwater has been
4891 contaminated, the owner or operator must comply with the
4892 requirements of Section 724.297(b); and
4893
4894 C) If repairing, replacing or reinstalling the tank system, provide
4895 secondary containment in accordance with the requirements of
4896 subsections (a) through (f) of this Section, or make the alternative
4897 design and operating practices demonstration to the Board again,
4898 and meet the requirements for new tank systems in Section
4899 724.292 if the tank system is replaced. The owner or operator
4900 must comply with these requirements even if contaminated soil is
4901 decontaminated or removed and groundwater or surface water has
4902 not been contaminated.
4903
4904 h) In order to make an alternative design and operating practices, the owner or
4905 operator must follow the following procedures in addition to those specified in
4906 Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104:
4907
4908 1) The owner or operator must file a petition for approval of alternative
4909 design and operating practices according to the following schedule:
4910
4911 A) For existing tank systems, at least 24 months prior to the date that
4912 secondary containment must be provided in accordance with
4913 subsection (a) of this Section.
4914
4915 B) For new tank systems, at least 30 days prior to entering into a
4916 contract for installation.
4917
4918 2) As part of the petition, the owner or operator must also submit the
4919 following to the Board:
4920
4921 A) A description of the steps necessary to conduct the demonstration
4922 and a timetable for completing each of the steps. The
4923 demonstration must address each of the factors listed in subsection
4924 (g)(1) or (g)(2) of this Section; and
4925
4926 B) The portion of the Part B permit application specified in 35 Ill.
4927 Adm. Code 703.202.

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- 3) The owner or operator must complete its showing within 180 days after filing its petition for approval of alternative design and operating practices.
 - 4) The Agency must issue or modify the RCRA permit so as to require the permittee to construct and operate the tank system in the manner that was provided in any Board order approving alternative design and operating practices.
- i) All tank systems, until such time as secondary containment that meets the requirements of this Section is provided, must comply with the following:
- 1) For non-enterable underground tanks, a leak test that meets the requirements of Section 724.291(b)(5) or other tank integrity methods, as approved or required by the Agency, must be conducted at least annually.
 - 2) For other than non-enterable underground tanks, the owner or operator must do either of the following:
 - A) Conduct a leak test, as in subsection (i)(1) of this Section, or
 - B) Develop a schedule and procedure for an assessment of the overall condition of the tank system by a qualified Professional Engineer ~~an independent, qualified registered professional engineer~~. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection and the characteristics of the waste being stored or treated.
 - 3) For ancillary equipment, a leak test or other integrity assessment, as approved by the Agency, must be conducted at least annually.

BOARD NOTE: The practices described in the API Publication, "Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used, where applicable, as a guideline for

- 4971 assessing the overall condition of the tank system.
 4972
 4973 4) The owner or operator must maintain on file at the facility a record of the
 4974 results of the assessments conducted in accordance with subsections (i)(1)
 4975 through (i)(3) of this Section.
 4976
 4977 5) If a tank system or component is found to be leaking or unfit for use as a
 4978 result of the leak test or assessment in subsections (i)(1) through (1)(3) of
 4979 this Section, the owner or operator must comply with the requirements of
 4980 Section 724.296.

4981
 4982 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 4983

4984 **Section 724.295 Inspections**
 4985

- 4986 a) The owner or operator must develop and follow a schedule and procedure for
 4987 inspecting overflow controls.
 4988
 4989 b) The owner or operator must inspect the following at least once each operating day
 4990 data gathered from monitoring and leak detection equipment (e.g., pressure or
 4991 temperature gauges, monitoring wells, etc.) to ensure that the tank system is being
 4992 operated according to its design.:
 4993
 4994 1) ~~Aboveground portions of the tank system, if any, to detect corrosion or~~
 4995 ~~releases of waste;~~
 4996
 4997 2) ~~Data gathered from monitoring and leak detection equipment (e.g.,~~
 4998 ~~pressure or temperature gauges, monitoring wells, etc.) to ensure that the~~
 4999 ~~tank system is being operated according to its design; and~~
 5000
 5001 3) ~~The construction materials and the area immediately surrounding the~~
 5002 ~~externally accessible portion of the tank system, including the secondary~~
 5003 ~~containment system (e.g., dikes) to detect erosion or signs of releases of~~
 5004 ~~hazardous waste (e.g., wet spots, dead vegetation, etc.).~~

5005
 5006 BOARD NOTE: Section 724.115(c) requires the owner or operator to remedy
 5007 any deterioration or malfunction the owner or operator finds. Section 724.296
 5008 requires the owner or operator to notify the Agency within 24 hours of confirming
 5009 a leak. Also federal 40 CFR 302.6 may require the owner or operator to notify the
 5010 National Response Center of a release.
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- 5012 c) In addition, except as noted under subsection (d) of this Section, the owner or
 5013 operator must inspect the following at least once each operating day:

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- 1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
 - 2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).
- d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in subsections (c)(1) and (c)(2) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.
- e) Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in Section 724.115(b)(5).
- f) Ancillary equipment that is not provided with secondary containment, as described in Section 724.293(f)(1) through (f)(4), must be inspected at least once each operating day.
- ge) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:
- 1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and
 - 2) All sources of impressed current must be inspected or tested, as appropriate, at least bimonthly (i.e., every other month).

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

5057
5058 hd) The owner or operator must document in the operating record of the facility an
5059 inspection of those items in subsections (a) through (c) of this Section.
5060

5061 (Source: Amended at 32 Ill. Reg. _____, effective _____)
5062

5063 **Section 724.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use**
5064 **Tank Systems**
5065

5066 A tank system or secondary containment system from which there has been a leak or spill, or
5067 which is unfit for use, must be removed from service immediately, and the owner or operator
5068 must satisfy the following requirements:
5069

5070 a) Cease using; prevent flow or addition of wastes. The owner or operator must
5071 immediately stop the flow of hazardous waste into the tank system or secondary
5072 containment system and inspect the system to determine the cause of the release.
5073

5074 b) Removal of waste from tank system or secondary containment system.
5075

5076 1) If the release was from the tank system, the owner or operator must,
5077 within 24 hours after detection of the leak or as otherwise provided in the
5078 permit, remove as much of the waste as is necessary to prevent further
5079 release of hazardous waste to the environment and to allow inspection and
5080 repair of the tank system to be performed.
5081

5082 2) If the material released was to a secondary containment system, all
5083 released materials must be removed within 24 hours or as otherwise
5084 provided in the permit to prevent harm to human health and the
5085 environment.
5086

5087 c) Containment of visible releases to the environment. The owner or operator must
5088 immediately conduct a visual inspection of the release and, based upon that
5089 inspection, do the following:
5090

5091 1) Prevent further migration of the leak or spill to soils or surface water; and
5092

5093 2) Remove and properly dispose of any visible contamination of the soil or
5094 surface water.
5095

5096 d) Notifications, reports.
5097

5098 1) Any release to the environment, except as provided in subsection (d)(2) of
5099 this Section, must be reported to the Agency within 24 hours of its

- 5100 detection.
- 5101
- 5102 2) A leak or spill of hazardous waste is exempted from the requirements of
- 5103 this subsection (d) if the following is true:
- 5104
- 5105 A) The spill was less than or equal to a quantity of one pound; and
- 5106
- 5107 B) It was immediately contained and cleaned up.
- 5108
- 5109 3) Within 30 days of detection of a release to the environment, a report
- 5110 containing the following information must be submitted to the Agency:
- 5111
- 5112 A) Likely route of migration of the release;
- 5113
- 5114 B) Characteristics of the surrounding soil (soil composition, geology,
- 5115 hydrogeology, climate, etc.);
- 5116
- 5117 C) Results of any monitoring or sampling conducted in connection
- 5118 with the release (if available). If sampling or monitoring data
- 5119 relating to the release are not available within 30 days, these data
- 5120 must be submitted to the Agency as soon as they become available.
- 5121
- 5122 D) Proximity the downgradient drinking water, surface water, and
- 5123 populated areas; and
- 5124
- 5125 E) Description of response actions taken or planned.
- 5126
- 5127 e) Provision of secondary containment, repair, or closure.
- 5128
- 5129 1) Unless the owner or operator satisfies the requirements of subsections
- 5130 (e)(2) through (e)(4) of this Section, the tank system must be closed in
- 5131 accordance with Section 724.297.
- 5132
- 5133 2) If the cause of the release was a spill that has not damaged the integrity of
- 5134 the system, the owner or operator may return the system to service as soon
- 5135 as the released waste is removed and repairs, if necessary, are made.
- 5136
- 5137 3) If the cause of the release was a leak from the primary tank system into the
- 5138 secondary containment system, the system must be repaired prior to
- 5139 returning the tank system to service.
- 5140
- 5141 4) If the source of the release was a leak to the environment from a
- 5142 component of a tank system without secondary containment, the owner or

5143 operator must provide the component of the system from which the leak
 5144 occurred with secondary containment that satisfies the requirements of
 5145 Section 724.293 before it can be returned to service, unless the source of
 5146 the leak is an aboveground portion of a tank system that can be inspected
 5147 visually. If the source is an aboveground component that can be inspected
 5148 visually, the component must be repaired and may be returned to service
 5149 without secondary containment, as long as the requirements of subsection
 5150 (f) of this Section are satisfied. If a component is replaced to comply with
 5151 the requirements of this subsection (e), that component must satisfy the
 5152 requirements of new tank systems or components in Sections 724.292 and
 5153 724.293. Additionally, if a leak has occurred in any portion of a tank
 5154 system component that is not readily accessible for visual inspection (e.g.,
 5155 the bottom of an in-ground or on-ground tank), the entire component must
 5156 be provided with secondary containment in accordance with Section
 5157 724.293 prior to being returned to use.
 5158

5159 f) Certification of major repairs. If the owner or operator has repaired a tank system
 5160 in accordance with subsection (e) of this Section, and the repair has been
 5161 extensive (e.g., installation of an internal liner, repair, or a ruptured primary
 5162 containment or secondary containment vessel), the tank system must not be
 5163 returned to service unless the owner or operator has obtained a certification by
 5164 ~~an independent, qualified Professional Engineer~~ registered professional engineer,
 5165 in accordance with 35 Ill. Adm. Code 702.126(d), that the repaired system is
 5166 capable of handling hazardous wastes without release for the intended life of the
 5167 system. This certification must be placed in the operating record and maintained
 5168 until closure of the facility ~~submitted to the Agency within seven days after~~
 5169 ~~returning the tank system to use.~~
 5170

5171 BOARD NOTE: See Section 724.115(c) for the requirements necessary to remedy a
 5172 failure. Also, federal 40 CFR 302.6 may require the owner or operator to notify the
 5173 National Response Center of any "reportable quantity."
 5174

5175 (Source: Amended at 32 Ill. Reg. _____, effective _____)
 5176

5177 SUBPART K: SURFACE IMPOUNDMENTS
 5178

5179 **Section 724.321 Design and Operating Requirements**
 5180

5181 a) Any surface impoundment that is not covered by subsection (c) of this Section or
 5182 35 Ill. Adm. Code 725.321 must have a liner for all portions of the impoundment
 5183 (except for existing portions of such impoundment). The liner must be designed,
 5184 constructed and installed to prevent any migration of wastes out of the
 5185 impoundment to the adjacent subsurface soil or groundwater or surface water at

any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or groundwater or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with Section 724.328(a)(1). For impoundments that will be closed in accordance with Section 724.328(a)(2), the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be as follows:

- 1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;
- 2) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and
- 3) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

b) The owner or operator will be exempted from the requirements of subsection (a) of this Section if the Board grants an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104. The level of justification is a demonstration by the owner or operator that alternative design or operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see Section 724.193) into the groundwater or surface water at any future time. In deciding whether to grant an adjusted standard, the Board will consider the following:

- 1) The nature and quantity of the wastes;
- 2) The proposed alternative design and operation;
- 3) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and
- 4) All other factors that would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

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- c) 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. "Construction commences" is as defined in 35 Ill. Adm. Code 720.110, under the definition of "existing facility."
 - 1) Liner requirements.
 - A) The liner system must include the following:
 - i) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and post-closure care period; and
 - ii) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least ~~three~~ three feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.
 - B) The liners must comply with subsections (a)(1), (a)(2), and (a)(3) of this Section.
 - 2) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system (LDS). This LDS must be capable of detecting, collecting, and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a LDS in this subsection (c) are satisfied by installation of a system that is, at a minimum, as follows:

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- A) It is constructed with a bottom slope of one percent or more;
 - B) It is constructed of granular drainage materials with a hydraulic conductivity of 1×10^1 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 3×10^4 m²/sec or more;
 - C) It is constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;
 - D) It is designed and operated to minimize clogging during the active life and post-closure care period; and
 - E) It is constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sumps. The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.
- 3) The owner or operator must collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.
 - 4) The owner or operator of a LDS that is not located completely above the seasonal high water table must demonstrate that the operation of the LDS will not be adversely affected by the presence of groundwater.
- d) Subsection (c) of this Section will not apply if the owner or operator demonstrates to the Agency, and the Agency finds for such surface impoundment, that alternative design or operating practices, together with location characteristics, will do the following:
 - 1) It will prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal system specified in subsection (c) of this Section; and

- 5315 2) It will allow detection of leaks of hazardous constituents through the top
5316 liner at least as effectively.
- 5317
- 5318 e) The double liner requirement set forth in subsection (c) of this Section may be
5319 waived by the Agency for any monofill, if the following is true of the unit:
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- 5321 1) The monofill contains only hazardous wastes from foundry furnace
5322 emission controls or metal casting molding sand, and such wastes do not
5323 contain constituents that would render the wastes hazardous for reasons
5324 other than the toxicity characteristic in 35 Ill. Adm. Code 721.124; and
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- 5326 2) Design and location.
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- 5328 A) Liner, location, and groundwater monitoring.
- 5329
- 5330 i) The monofill has at least one liner for which there is no
5331 evidence that such liner is leaking. For the purposes of this
5332 subsection (e), the term "liner" means a liner designed,
5333 constructed, installed, and operated to prevent hazardous
5334 waste from passing into the liner at any time during the
5335 active life of the facility, or a liner designed, constructed,
5336 installed, and operated to prevent hazardous waste from
5337 migrating beyond the liner to adjacent subsurface soil,
5338 groundwater or surface water at any time during the active
5339 life of the facility. In the case of any surface impoundment
5340 that has been exempted from the requirements of
5341 subsection (c) of this Section on the basis of a liner
5342 designed, constructed, installed, and operated to prevent
5343 hazardous waste from passing beyond the liner, at the
5344 closure of such impoundment, the owner or operator must
5345 remove or decontaminate all waste residues, all
5346 contaminated liner material, and contaminated soil to the
5347 extent practicable. If all contaminated soil is not removed
5348 or decontaminated, the owner or operator of such
5349 impoundment will comply with appropriate post-closure
5350 requirements, including but not limited to groundwater
5351 monitoring and corrective action;
- 5352
- 5353 ii) The monofill is located more than one-quarter mile from an
5354 "underground source of drinking water" (as that term is
5355 defined in 35 Ill. Adm. Code 702.110); and
- 5356
- 5357 iii) The monofill is in compliance with generally applicable

groundwater monitoring requirements for facilities with permits; or

- B) The owner or operator demonstrates to the Board that the monofill is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.
- f) The owner or operator of any replacement surface impoundment unit is exempt from subsection (c) of this Section if the following is true of the unit:
 - 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 6901 et seq.).
 - 2) There is no reason to believe that the liner is not functioning as designed.
- g) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.
- h) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.
- i) The Agency must specify in the permit all design and operating practices that are necessary to ensure that the requirements of this Section are satisfied.

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

Section 724.323 Response Actions

- a) The owner or operator of surface impoundment units subject to Section 724.321(c) or (d) must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.

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2) Document why such assessments are not needed.

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

SUBPART L: WASTE PILES

Section 724.351 Design and Operating Requirements

a) A waste pile (except for an existing portion of a waste pile) must have the following:

1) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the pile into the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or groundwater or surface water) during the active life of the facility. The liner must be as follows:

A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

2) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The Agency must specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be as follows:

A) Constructed of materials that are as follows:

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- i) Chemically resistant to the waste managed in the pile and the leachate expected to be generated; and
 - ii) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials and by any equipment used at the pile; and
 - B) Designed and operated to function without clogging through the scheduled closure of the waste pile.
- b) The owner or operator will be exempted from the requirements of subsection (a) of this Section if the Board grants an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101 and 104. The level of justification is a demonstration by the owner or operator that alternative design or operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see Section 724.193) into the groundwater or surface water at any future time. In deciding whether to grant an adjusted standard, the Board will consider the following:
 - 1) The nature and quantity of the wastes;
 - 2) The proposed alternative design and operation;
 - 3) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and groundwater or surface water; and
 - 4) All other factors that influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.
- c) ~~The owner or operator of each new waste pile unit on which construction commenced after January 29, 1992, each lateral expansion of a waste pile unit on which construction commenced after July 29, 1992, and each replacement of an existing waste pile unit that was to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners. "Construction commenced" is as defined in Section 720.110 under "existing facility."~~
 - 1) Liners.
 - A) The liner system must include the following:

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- i) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into such liner during the active life and post-closure care period; and
 - ii) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.
- B) The liners must comply with subsections (a)(1)(A), (a)(1)(B), and (a)(1)(C) of this Section.
- 2) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated and maintained to collect and remove leachate from the waste pile during the active life and post-closure care period. The Agency must specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must comply with subsections (c)(3)(C) and (c)(3)(D) of this Section.
- 3) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system (LDS). This LDS must be capable of detecting, collecting and removing leaks of hazardous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a LDS in this subsection (c) are satisfied by installation of a system that is, at a minimum, as follows:
- A) Constructed with a bottom slope of one percent or more;
 - B) Constructed of granular drainage materials with a hydraulic

- 5573 conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches
 5574 (30.5 cm) or more; or constructed of synthetic or geonet drainage
 5575 materials with a transmissivity of 3×10^{-5} m²/sec or more;
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 5577 C) Constructed of materials that are chemically resistant to the waste
 5578 managed in the waste pile and the leachate expected to be
 5579 generated, and of sufficient strength and thickness to prevent
 5580 collapse under the pressures exerted by overlying wastes, waste
 5581 cover materials, and equipment used at the waste pile;
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 5583 D) Designed and operated to minimize clogging during the active life
 5584 and post-closure care period; and
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 5586 E) Constructed with sumps and liquid removal methods (e.g., pumps)
 5587 of sufficient size to collect and remove liquids from the sump and
 5588 prevent liquids from backing up into the drainage layer. Each unit
 5589 must have its own sumps. The design of each sump and removal
 5590 system must provide a method for measuring and recording the
 5591 volume of liquids present in the sump and of liquids removed.
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 5593 4) The owner or operator must collect and remove pumpable liquids in the
 5594 LDS sumps to minimize the head on the bottom liner.
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 5596 5) The owner or operator of a LDS that is not located completely above the
 5597 seasonal high water table must demonstrate that the operation of the LDS
 5598 will not be adversely affected by the presence of groundwater.
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 5600 d) The Agency must approve alternative design or operating practices to those
 5601 specified in subsection (c) of this Section if the owner or operator demonstrates to
 5602 the Agency, by way of permit or permit modification application, that such design
 5603 or operating practices, together with location characteristics, will do the
 5604 following:
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 5606 1) Will prevent the migration of any hazardous constituent into the ground
 5607 water or surface water at least as effectively as the liners and leachate
 5608 collection and removal systems specified in subsection (c) of this Section;
 5609 and
 5610
 5611 2) Will allow detection of leaks of hazardous constituents through the top
 5612 liner at least as effectively.
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 5614 e) Subsection (c) of this Section does not apply to monofills that are granted a
 5615 waiver by the Agency in accordance with Section 724.321(e).

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- f) The owner or operator of any replacement waste pile unit is exempt from subsection (c) of this Section if the following are true:
 - 1) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act (42 USC 6901 et seq.); and

BOARD NOTE: The cited provisions required the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners, including a top liner designed, operated and constructed of materials to prevent the migration of any constituent into such liner during the period the facility remained in operation (including any post-closure monitoring period), and a lower liner to prevent the migration of any constituent through the liner during such period. The lower liner was deemed to satisfy the requirement if it was constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a permeability of no more than 1×10^{-7} cm/sec.
 - 2) There is no reason to believe that the liner is not functioning as designed.
- g) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.
- h) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.
- i) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.
- j) If the pile contains any particulate matter that may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.
- k) The Agency must specify in the permit all design and operating practices that are necessary to ensure that the requirements of this Section are satisfied.

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

Section 724.352 Action Leakage Rate

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- a) The Agency must approve an action leakage rate for waste pile surface ~~impoundment~~ units subject to Section 724.351(c) or (d). 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; likelihood and amounts of other sources of liquids in the LDS; and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).
- b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under Section 724.354(c) to an average daily flow rate (gallons per acre per day) for each sump. The average daily flow rate for each sump must be calculated weekly during the active life and closure period.

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

Section 724.353 Response Action Plan

- a) The owner or operator of waste pile units subject to Section 724.351(c) or (d) must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in subsection (b) of this Section.
- b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the owner or operator must do the following:
 - 1) Notify the Agency in writing of the ~~exceedance~~ ~~exceedence~~ within seven days after the determination;
 - 2) Submit a preliminary written assessment to the Agency within 14 days after the determination, as to the amount of liquids, likely sources of liquids, possible location, size and cause of any leaks, and short-term actions taken and planned;
 - 3) Determine to the extent practicable the location, size, and cause of any leak;

- 5702 4) Determine whether waste receipt should cease or be curtailed; whether any
5703 waste should be removed from the unit for inspection, repairs, or controls;
5704 and whether the unit should be closed;
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- 5706 5) Determine any other short-term and long-term actions to be taken to
5707 mitigate or stop any leaks; and
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- 5709 6) Within 30 days after the notification that the action leakage rate has been
5710 exceeded, submit to the Agency the results of the determinations specified
5711 in subsections (b)(3), (b)(4), and (b)(5) of this Section, the results of
5712 actions taken, and actions planned. Monthly thereafter, as long as the flow
5713 rate in the LDS exceeds the action leakage rate, the owner or operator
5714 must submit to the Agency a report summarizing the results of any
5715 remedial actions taken and actions planned.
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5717 c) To make the leak or remediation determinations in subsections (b)(3), (b)(4), and
5718 (b)(5) of this Section, the owner or operator must do either of the following:

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- 5720 1) Perform the following assessments:
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 - 5722 A) Assess the source of liquids and amounts of liquids by source;
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 - 5724 B) Conduct a fingerprint, hazardous constituent, or other analyses of
5725 the liquids in the LDS to identify the source of liquids and possible
5726 location of any leaks, and the hazard and mobility of the liquid;
5727 and
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 - 5729 C) Assess the seriousness of any leaks in terms of potential for
5730 escaping into the environment; or
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- 5732 2) Document why such assessments are not needed.
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5734 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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5736 SUBPART M: LAND TREATMENT 5737

5738 **Section 724.380 Closure and Post-Closure Care** 5739

- 5740 a) During the closure period the owner or operator must do the following:
 - 5741
 - 5742 1) ~~It must continue~~Continue all operations (including pH control) necessary
5743 to maximize degradation, transformation or immobilization of hazardous
5744 constituents within the treatment zone as required under Section

- 5745 724.373(a), except to the extent such measures are inconsistent with
5746 subsection (a)(8) of this Section;
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5748 2) ~~It must continue~~Continue all operations in the treatment zone to minimize
5749 run-off of hazardous constituents, as required under Section 724.373(b);
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5751 3) ~~It must maintain~~Maintain the run-on control system required under
5752 Section 724.373(c);
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5754 4) ~~It must maintain~~Maintain the run-off management system required under
5755 Section 724.373(d);
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5757 5) ~~It must control~~Control wind dispersal of hazardous waste if required under
5758 Section 724.373(f);
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5760 6) ~~It must continue~~Continue to comply with any prohibitions or conditions
5761 concerning growth of food-chain crops under Section 724.376;
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5763 7) ~~It must continue~~Continue unsaturated zone monitoring in compliance with
5764 Section 724.378, except that soil-pore liquid monitoring may be
5765 terminated 90 days after the last application of waste to the treatment
5766 zone; and
5767
5768 8) ~~It must establish~~Establish a vegetative cover on the portion of the facility
5769 being closed at such time that the cover will not substantially impede
5770 degradation, transformation, or immobilization of hazardous constituents
5771 in the treatment zone. The vegetative cover must be capable of
5772 maintaining growth without extensive maintenance.
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5774 b) For the purpose of complying with Section 724.215, when closure is completed
5775 the owner or operator may submit to the Agency certification by an independent
5776 qualified soil scientist, in lieu of a qualified Professional Engineer~~an independent~~
5777 ~~registered professional engineer~~, that the facility has been closed in accordance
5778 with the specifications in the approved closure plan.
5779
5780 c) During the post-closure care period the owner or operator must do the following:
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5782 1) ~~It must continue~~Continue all operations (including pH control) necessary
5783 to enhance degradation and transformation and sustain immobilization of
5784 hazardous constituents in the treatment zone to the extent that such
5785 measures are consistent with other post-closure care activities;
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5787 2) ~~It must maintain~~Maintain a vegetative cover over closed portions of the

- 5788 facility;
- 5789
- 5790 3) ~~It must maintain~~Maintain the run-on control system required under
- 5791 Section 724.373(c);
- 5792
- 5793 4) ~~It must maintain~~Maintain the run-off management system required under
- 5794 Section 724.373(d);
- 5795
- 5796 5) ~~It must control~~Control wind dispersal of hazardous waste if required under
- 5797 Section 724.373(f);
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- 5799 6) ~~It must continue~~Continue to comply with any prohibitions or conditions
- 5800 concerning growth of food-chain crops under Section 724.376; and
- 5801
- 5802 7) ~~It must continue~~Continue unsaturated zone monitoring in compliance with
- 5803 Section 724.378, except that soil-pore liquid monitoring may be
- 5804 terminated 90 days after the last application of waste to the treatment
- 5805 zone.
- 5806
- 5807 d) The owner or operator is not subject to regulation under subsections (a)(8) and (c)
- 5808 of this Section if the Agency finds that the level of hazardous constituents in the
- 5809 treatment zone soil does not exceed the background value of those constituents by
- 5810 an amount that is statistically significant when using the test specified in
- 5811 subsection (d)(3) of this Section. The owner or operator may submit such a
- 5812 demonstration to the Agency at any time during the closure or post-closure care
- 5813 periods. For the purposes of this subsection (d), the owner or operator must do
- 5814 the following:
- 5815
- 5816 1) The owner or operator must establish background soil values and
- 5817 determine whether there is a statistically significant increase over those
- 5818 values for all hazardous constituents specified in the facility permit under
- 5819 Section 724.371.
- 5820
- 5821 A) Background soil values may be based on a one-time sampling of a
- 5822 background plot having characteristics similar to those of the
- 5823 treatment zone.
- 5824
- 5825 B) The owner or operator must express background values and values
- 5826 for hazardous constituents in the treatment zone in a form
- 5827 necessary for the determination of statistically significant increases
- 5828 under subsection (d)(3) of this Section.
- 5829
- 5830 2) In taking samples used in the determination of background and treatment

5831 zone values, the owner or operator must take samples at a sufficient
5832 number of sampling points and at appropriate locations and depths to yield
5833 samples that represent the chemical make-up of soil that has not been
5834 affected by leakage from the treatment zone and the soil within the
5835 treatment zone, respectively.

5836
5837 3) In determining whether a statistically significant increase has occurred, the
5838 owner or operator must compare the value of each constituent in the
5839 treatment zone to the background value for that constituent using a
5840 statistical procedure that provides reasonable confidence that constituent
5841 presence in the treatment zone will be identified. The owner or operator
5842 must use a statistical procedure that does the following:

5843
5844 A) ~~It is~~Is appropriate for the distribution of the data used to establish
5845 background values; and

5846
5847 B) ~~It provides~~Provides a reasonable balance between the probability
5848 of falsely identifying hazardous constituent presence in the
5849 treatment zone and the probability of failing to identify real
5850 presence in the treatment zone.

5851
5852 e) The owner or operator is not subject to regulation under Subpart F of this Part if
5853 the Agency finds that the owner or operator satisfies subsection (d) of this Section
5854 and if unsaturated zone monitoring under Section 724.378 indicates that
5855 hazardous constituents have not migrated beyond the treatment zone during the
5856 active life of the land treatment unit.

5857
5858 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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5860 SUBPART N: LANDFILLS

5861
5862 **Section 724.404 Response Actions**

5863
5864 a) The owner or operator of landfill units subject to Section 724.401(c) or (d) must
5865 have an approved response action plan before receipt of waste. The response
5866 action plan must set forth the actions to be taken if the action leakage rate has
5867 been exceeded. At a minimum, the response action plan must describe the actions
5868 specified in subsection (b) of this Section.

5869
5870 b) If the flow rate into the LDS exceeds the action leakage rate for any sump, the
5871 owner or operator must do the following :

5872
5873 1) Notify the Agency in writing of the ~~exceedance~~exceedence within seven

- 5874 days of the determination;
5875
5876 2) Submit a preliminary written assessment to the Agency within 14 days of
5877 the determination, as to the amount of liquids, likely sources of liquids,
5878 possible location, size, and cause of any leaks, and short-term actions
5879 taken and planned;
5880
5881 3) Determine to the extent practicable the location, size, and cause of any
5882 leak;
5883
5884 4) Determine whether waste receipt should cease or be curtailed, whether any
5885 waste should be removed from the unit for inspection, repairs, or controls,
5886 and whether the unit should be closed;
5887
5888 5) Determine any other short-term and longer-term actions to be taken to
5889 mitigate or stop any leaks; and
5890
5891 6) Within 30 days after the notification that the action leakage rate has been
5892 exceeded, submit to the Agency the results of the determinations specified
5893 in subsections (b)(3), (b)(4), and (b)(5) of this Section , the results of
5894 actions taken, and actions planned. Monthly thereafter, as long as the flow
5895 rate in the LDS exceeds the action leakage rate, the owner or operator
5896 must submit to the Agency a report summarizing the results of any
5897 remedial actions taken and actions planned.
5898
5899 c) To make the leak or remediation determinations in subsections (b)(3), (b)(4), and
5900 (b)(5) of this Section, the owner or operator must do either of the following:
5901
5902 1) Perform the following assessments:
5903
5904 A) Assess the source of liquids and amounts of liquids by source;
5905
5906 B) Conduct a fingerprint, hazardous constituent, or other analyses of
5907 the liquids in the LDS to identify the source of liquids and possible
5908 location of any leaks and the hazard and mobility of the liquid; and
5909
5910 C) Assess the seriousness of any leaks in terms of potential for
5911 escaping into the environment; or
5912
5913 2) Document why such assessments are not needed.
5914
5915 (Source: Amended at 32 Ill. Reg. _____, effective _____)
5916

Section 724.414 Special Requirements for Bulk and Containerized Liquids

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- a) ~~This subsection (a) corresponds with 40 CFR 264.314(a), which pertains to pre May 8, 1985 actions, a date long since passed. This statement maintains structural consistency with USEPA rules.~~
- ab) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.
- be) 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).
- cd) Containers holding free liquids must not be placed in a landfill unless the following is true:
 - 1) All free-standing liquid fulfills one of the following:
 - A) It has been removed by decanting or other methods;
 - B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or
 - C) It has been otherwise eliminated; or
 - 2) The container is very small, such as an ampule; or
 - 3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or
 - 4) The container is a lab pack as defined in Section 724.416 and is disposed of in accordance with Section 724.416.
- de) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are the following: materials listed or described in subsection (e)(1) of this Section; materials that pass one of the tests in subsection (e)(2) of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of 35 Ill. Adm. Code 104.

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- 1) Nonbiodegradable sorbents are the following:
 - A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates (clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, etc.), calcium carbonate (organic free limestone), oxides/hydroxides (alumina, lime, silica (sand), diatomaceous earth, etc.), perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal (activated carbon), etc.); or
 - B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstrene and tertiary butyl copolymers, etc.). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or
 - C) Mixtures of these nonbiodegradable materials.
 - 2) Tests for nonbiodegradable sorbents are the following:
 - A) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) (Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi), incorporated by reference in 35 Ill. Adm. Code 720.111(a);
 - B) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) (Standard Practice for Determining Resistance of Plastics to Bacteria), incorporated by reference in 35 Ill. Adm. Code 720.111(a); or
 - C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method 301B (CO₂ Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).
- ef) The placement of any liquid that is not a hazardous waste in a hazardous waste landfill is prohibited (35 Ill. Adm. Code 729.311), unless the Board finds that the owner or operator has demonstrated the following in a petition for an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm.

6003 Code 101 and 104:

- 6004
- 6005 1) The only reasonably available alternative to the placement in a hazardous
- 6006 waste landfill is placement in a landfill or unlined surface impoundment,
- 6007 whether or not permitted or operating under interim status, that contains or
- 6008 which may reasonably be anticipated to contain hazardous waste; and
- 6009
- 6010 2) Placement in the hazardous waste landfill will not present a risk of
- 6011 contamination of any "underground source of drinking water" (as that term
- 6012 is defined in 35 Ill. Adm. Code 702.110).
- 6013

6014 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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6016 SUBPART O: INCINERATORS

6017

6018 **Section 724.443 Performance Standards**

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6020 An incinerator burning hazardous waste must be designed, constructed, and maintained so that,

6021 when operated in accordance with operating requirements specified under Section 724.445, it

6022 will meet the following performance standards:

6023

6024 a) Destruction and removal efficiency.

6025

- 6026 1) Except as provided in subsection (a)(2) of this Section, an incinerator
- 6027 burning hazardous waste must achieve a destruction and removal
- 6028 efficiency (DRE) of 99.99% for each principal organic hazardous
- 6029 constituent (POHC) designated (under Section 724.442) in its permit for
- 6030 each waste feed. DRE is determined for each POHC from the following
- 6031 equation:
- 6032

$$DRE = \frac{100 \times (N - O)}{N}$$

6033

6034 Where:

6035

6036

- N = Mass feed rate of one principal organic hazardous constituent (POHC) in the waste stream feeding the incinerator
- O = Mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

- 6037
- 6038 2) An incinerator burning hazardous wastes F020, F021, F022, F023, F026,
- 6039 or F027 must achieve a destruction and removal efficiency (DRE) of
- 6040 99.9999% for each principal organic hazardous constituent (POHC)

6041 designated (under Section 724.442) in its permit. This performance must
 6042 be demonstrated on POHCs that are more difficult to incinerate than tetra-,
 6043 penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is
 6044 determined for each POHC from the equation in subsection (a)(1) of this
 6045 Section. ~~In addition, the owner or operator of the incinerator must notify~~
 6046 ~~the Agency of its intent to incinerate hazardous wastes F020, F021, F022,~~
 6047 ~~F023, F026, or F027.~~

6048
 6049 b) An incinerator burning hazardous waste and producing stack emissions of more
 6050 than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must
 6051 control HCl emissions such that the rate of emission is no greater than the larger
 6052 of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to
 6053 entering any pollution control equipment.

6054
 6055 c) An incinerator burning hazardous waste must not emit particulate matter in excess
 6056 of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard
 6057 cubic foot) when corrected for the amount of oxygen in the stack gas according to
 6058 the following formula:
 6059

$$C = \frac{14 \times M}{21 - Y}$$

6060
 6061 1) Where:
 6062
 6063

- C = the corrected concentration of particulate matter
- M = the measured concentration of particulate matter
- Y = the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in Method 3 in appendix A to 40 CFR 60 (Gas Analysis for the Determination of Dry Molecular Weight), incorporated by reference in 35 Ill. Adm. Code 720.111(b)-

6064
 6065 2) This correction procedure is to be used by all hazardous waste incinerators
 6066 except those operating under conditions of oxygen enrichment. For these
 6067 facilities, the Agency must select an appropriate correction procedure, to
 6068 be specified in the facility permit.
 6069

6070 d) For the purposes of permit enforcement, compliance with the operating
 6071 requirements specified in the permit (under Section 724.445) will be regarded as
 6072 compliance with this Section. However, evidence that compliance with those
 6073 permit conditions is insufficient to ensure compliance with the performance
 6074 requirements of this Section may be "information" justifying modification,
 6075 revocation or reissuance of a permit under 35 Ill. Adm. Code 702.184.

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

Section 724.447 Monitoring and Inspections

- a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating hazardous waste:
 - 1) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.
 - 2) Carbon monoxide must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere.
 - 3) Upon request by the Agency, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieved the performance standard of Section 724.443.
- b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions and signs of tampering.
- c) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Agency that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.
- d) This monitoring and inspection data must be recorded and the records must be placed in the operating ~~record~~ log required by Section 724.173 and maintained in the operating record for five years.

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

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section 724.652 Corrective Action Management Units

- a) To implement remedies pursuant to Section 724.201 or RCRA section 3008(h), or to implement remedies at a permitted facility that is not subject to Section

6119 724.201, the Agency may designate an area at the facility as a corrective action
 6120 management unit pursuant to the requirements in this Section. "Corrective action
 6121 management unit" or "CAMU" means an area within a facility that is used only
 6122 for managing CAMU-eligible wastes for implementing corrective action or
 6123 cleanup at that facility. A CAMU must be located within the contiguous property
 6124 under the control of the owner or operator where the wastes to be managed in the
 6125 CAMU originated. One or more CAMUs may be designated at a facility.
 6126

6127 1) "CAMU-eligible waste" means the following:
 6128

6129 A) All solid and hazardous wastes, and all media (including
 6130 groundwater, surface water, soils, and sediments) and debris, that
 6131 are managed for implementing cleanup. As-generated wastes
 6132 (either hazardous or non-hazardous) from ongoing industrial
 6133 operations at a site are not CAMU-eligible wastes.
 6134

6135 B) Wastes that would otherwise meet the description in subsection
 6136 (a)(1)(A) of this Section are not CAMU-eligible waste where the
 6137 following is true:
 6138

6139 i) The wastes are hazardous waste found during cleanup in
 6140 intact or substantially intact containers, tanks, or other non-
 6141 land-based units found above ground, unless the wastes are
 6142 first placed in the tanks, containers, or non-land-based units
 6143 as part of cleanup, or the containers or tanks are excavated
 6144 during the course of cleanup; or
 6145

6146 ii) The Agency makes the determination in subsection (a)(2)
 6147 of this Section to prohibit the wastes from management in a
 6148 CAMU.
 6149

6150 C) Notwithstanding subsection (a)(1)(A) of this Section, where
 6151 appropriate, as-generated non-hazardous waste may be placed in a
 6152 CAMU where such waste is being used to facilitate treatment or
 6153 the performance of the CAMU.
 6154

6155 2) The Agency must prohibit the placement of waste in a CAMU where the
 6156 Agency determines that the wastes have not been managed in compliance
 6157 with applicable land disposal treatment standards of 35 Ill. Adm. Code
 6158 728, applicable unit design requirements of this Part or 35 Ill. Adm. Code
 6159 725, or other applicable requirements of this Subtitle G, and that the non-
 6160 compliance likely contributed to the release of the waste.
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- 3) Prohibition against placing liquids in a CAMU.
 - A) The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not sorbents have been added) in any CAMU is prohibited except where placement of such wastes facilitates the remedy selected for the waste.
 - B) The requirements in Section 724.414(d) for placement of containers holding free liquids in landfills apply to placement in a CAMU, except where placement facilitates the remedy selected for the waste.
 - C) The placement of any liquid that is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to Section 724.414(f).
 - D) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with Section 724.414(c). Sorbents used to treat free liquids in a CAMU must meet the requirements of Section 724.414(e).
 - 4) Placement of CAMU-eligible wastes into or within a CAMU does not constitute land disposal of hazardous waste.
 - 5) Consolidation or placement of CAMU-eligible wastes into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.
- b) Establishing a CAMU.
- 1) The Agency must designate a regulated unit (as defined in Section 724.190(a)(2)) as a CAMU or must incorporate a regulated unit into a CAMU, if it determines that the following is true of a regulated unit:
 - A) The regulated unit is closed or closing, meaning it has begun the closure process pursuant to Section 724.213 or 35 Ill. Adm. Code 725.213; and
 - B) Inclusion of the regulated unit will enhance implementation of effective, protective, and reliable remedial actions for the facility.

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- 2) The Subpart F, G, and H requirements and the unit-specific requirements of this Part or 35 Ill. Adm. Code 265 that applied to the regulated unit will continue to apply to that portion of the CAMU after incorporation into the CAMU.
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- c) The Agency must designate a CAMU that will be used for storage or treatment only in accordance with subsection (f) of this Section. The Agency must designate any other CAMU in accordance with the following requirements:
- 6214
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6216
- 1) The CAMU must facilitate the implementation of reliable, effective, protective, and cost-effective remedies;
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- 2) Waste management activities associated with the CAMU must not create unacceptable risks to humans or to the environment resulting from exposure to hazardous wastes or hazardous constituents;
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- 3) The CAMU must include uncontaminated areas of the facility, only if including such areas for the purpose of managing CAMU-eligible waste is more protective than management of such wastes at contaminated areas of the facility;
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- 4) Areas within the CAMU, where wastes remain in place after closure of the CAMU, must be managed and contained so as to minimize future releases, to the extent practicable;
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- 5) The CAMU must expedite the timing of remedial activity implementation, when appropriate and practicable;
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- 6) The CAMU must enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and
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- 7) The CAMU must, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.
- 6241
- d) The owner or operator must provide sufficient information to enable the Agency to designate a CAMU in accordance with the criteria in this Section. This must include, unless not reasonably available, information on the following:
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6245
- 1) The origin of the waste and how it was subsequently managed (including a description of the timing and circumstances surrounding the disposal or
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6291 into the groundwater or surface water at least as effectively
6292 as the liner and leachate collection systems in subsection
6293 (e)(3)(A) of this Section; or
6294

- 6295 ii) The CAMU is to be established in an area with existing
6296 significant levels of contamination, and the Agency
6297 determines that an alternative design, including a design
6298 that does not include a liner, would prevent migration from
6299 the unit that would exceed long-term remedial goals.
6300

- 6301 4) Minimum treatment requirements: Unless the wastes will be placed in a
6302 CAMU for storage or treatment only in accordance with subsection (f) of
6303 this Section, CAMU-eligible wastes that, absent this Section, would be
6304 subject to the treatment requirements of 35 Ill. Adm. Code 728, and that
6305 the Agency determines contain principal hazardous constituents must be
6306 treated to the standards specified in subsection (e)(4)(C) of this Section.
6307

- 6308 A) Principal hazardous constituents are those constituents that the
6309 Agency determines pose a risk to human health and the
6310 environment substantially higher than the cleanup levels or goals at
6311 the site.
6312

- 6313 i) In general, the Agency must designate as principal
6314 hazardous constituents those contaminants specified in
6315 subsection (e)(4)(H) of this Section.
6316

6317 BOARD NOTE: The Board has codified 40 CFR
6318 264.552(e)(4)(i)(A)(1) and (e)(4)(i)(A)(2) as subsections
6319 (e)(4)(H)(i) and (e)(4)(H)(ii) of this Section in order to
6320 comply with Illinois Administrative Code codification
6321 requirements.
6322

- 6323 ii) The Agency must also designate constituents as principal
6324 hazardous constituents, where appropriate, when risks to
6325 human health and the environment posed by the potential
6326 migration of constituents in wastes to groundwater are
6327 substantially higher than cleanup levels or goals at the site.
6328 When making such a designation, the Agency must
6329 consider such factors as constituent concentrations, and fate
6330 and transport characteristics under site conditions.
6331

- 6332 iii) The Agency must also designate other constituents as
6333 principal hazardous constituents that the Agency

determines pose a risk to human health and the environment substantially higher than that posed by the cleanup levels or goals at the site.

- B) In determining which constituents are "principal hazardous constituents," the Agency must consider all constituents that, absent this Section, would be subject to the treatment requirements in 35 Ill. Adm. Code 728.
- C) Waste that the Agency determines contains principal hazardous constituents must meet treatment standards determined in accordance with subsection (e)(4)(D) or (e)(4)(E) of this Section.
- D) Treatment standards for wastes placed in a CAMU.
 - i) For non-metals, treatment must achieve 90 percent reduction in total principal hazardous constituent concentrations, except as provided by subsection (e)(4)(D)(iii) of this Section.
 - ii) For metals, treatment must achieve 90 percent reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media (tested according to the TCLP) or 90 percent reduction in total constituent concentrations (when a metal removal treatment technology is used), except as provided by subsection (e)(4)(D)(iii) of this Section.
 - iii) When treatment of any principal hazardous constituent to a 90 percent reduction standard would result in a concentration less than 10 times the Universal Treatment Standard for that constituent, treatment to achieve constituent concentrations less than 10 times the Universal Treatment Standard is not required. Universal Treatment Standards are identified in Table U to 35 Ill. Adm. Code 728.
 - iv) For waste exhibiting the hazardous characteristic of ignitability, corrosivity, or reactivity, the waste must also be treated to eliminate these characteristics.
 - v) For debris, the debris must be treated in accordance with 35 Ill. Adm. Code ~~Section~~ 728.145, or by methods or to levels

- 6377 established pursuant to subsections (e)(4)(D)(i) through
6378 (e)(4)(D)(iv) or subsection (e)(4)(E) of this Section,
6379 whichever the Agency determines is appropriate.
6380
- 6381 vi) Alternatives to TCLP. For metal bearing wastes for which
6382 metals removal treatment is not used, the Agency must
6383 specify a leaching test other than Method 1311 (Toxicity
6384 Characteristic Leaching Procedure), in "Test Methods for
6385 Evaluating Solid Waste, Physical/Chemical Methods,"
6386 USEPA publication number EPA-530/SW-846,
6387 incorporated by reference in 35 Ill. Adm. Code 720.111(a)
6388 to measure treatment effectiveness, provided the Agency
6389 determines that an alternative leach testing protocol is
6390 appropriate for use, and that the alternative more accurately
6391 reflects conditions at the site that affect leaching.
6392
- 6393 E) Adjusted standards. The Board will grant an adjusted standard
6394 pursuant to Section 28.1 of the Act to adjust the treatment level or
6395 method in subsection (e)(4)(D) of this Section to a higher or lower
6396 level, based on one or more of the following factors, as
6397 appropriate, if the owner or operator demonstrates that the adjusted
6398 level or method would adequately protect human health and the
6399 environment, based on consideration of the following:
6400
- 6401 i) The technical impracticability of treatment to the levels or
6402 by the methods in subsection (e)(4)(D) of this Section;
6403
- 6404 ii) The levels or methods in subsection (e)(4)(D) of this
6405 Section would result in concentrations of principal
6406 hazardous constituents (PHCs) that are significantly above
6407 or below cleanup standards applicable to the site
6408 (established either site-specifically, or promulgated
6409 pursuant to State or federal law);
6410
- 6411 iii) The views of the affected local community on the treatment
6412 levels or methods in subsection (e)(4)(D) of this Section, as
6413 applied at the site, and, for treatment levels, the treatment
6414 methods necessary to achieve these levels;
6415
- 6416 iv) The short-term risks presented by the on-site treatment
6417 method necessary to achieve the levels or treatment
6418 methods in subsection (e)(4)(D) of this Section;
6419

6420 v) The long-term protection offered by the engineering design
6421 of the CAMU and related engineering controls under the
6422 circumstances set forth in subsection (e)(4)(I) of this
6423 Section.

6424
6425 BOARD NOTE: The Board has codified 40 CFR
6426 264.552(e)(4)(v)(E)(1) through (e)(4)(v)(E)(5) as
6427 subsections (e)(4)(I)(i) through (e)(4)(I)(v) of this Section
6428 in order to comply with Illinois Administrative Code
6429 codification requirements.

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6431 F) The treatment required by the treatment standards must be
6432 completed prior to, or within a reasonable time after, placement in
6433 the CAMU.

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6435 G) For the purpose of determining whether wastes placed in a CAMU
6436 have met site-specific treatment standards, the Agency must
6437 specify a subset of the principal hazardous constituents in the
6438 waste as analytical surrogates for determining whether treatment
6439 standards have been met for other principal hazardous constituents
6440 if it determines that the specification is appropriate based on the
6441 degree of difficulty of treatment and analysis of constituents with
6442 similar treatment properties.

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6444 H) Principal hazardous constituents that the Agency must designate
6445 are the following:
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6447 i) Carcinogens that pose a potential direct risk from ingestion
6448 or inhalation at the site at or above 10^{-3} ; and
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6450 ii) Non-carcinogens that pose a potential direct risk from
6451 ingestion or inhalation at the site an order of magnitude or
6452 greater over their reference dose.

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6454 I) Circumstances relating to the long-term protection offered by
6455 engineering design of the CAMU and related engineering controls
6456 are the following:

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6458 i) Where the treatment standards in subsection (e)(4)(D) of
6459 this Section are substantially met and the principal
6460 hazardous constituents in the waste or residuals are of very
6461 low mobility;
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- 6463 ii) Where cost-effective treatment has been used and the
6464 CAMU meets the Subtitle C liner and leachate collection
6465 requirements for new land disposal units at Section
6466 724.401(c) and (d);
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- 6468 iii) Where, after review of appropriate treatment technologies,
6469 the Board determines that cost-effective treatment is not
6470 reasonably available, and the CAMU meets the Subtitle C
6471 liner and leachate collection requirements for new land
6472 disposal units at Section 724.401(c) and (d);
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- 6474 iv) Where cost-effective treatment has been used and the
6475 principal hazardous constituents in the treated wastes are of
6476 very low mobility; or
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- 6478 v) Where, after review of appropriate treatment technologies,
6479 the Board determines that cost-effective treatment is not
6480 reasonably available, the principal hazardous constituents
6481 in the wastes are of very low mobility, and either the
6482 CAMU meets or exceeds the liner standards for new,
6483 replacement, or a laterally expanded CAMU in subsections
6484 (e)(3)(A) and (e)(3)(B) of this Section or the CAMU
6485 provides substantially equivalent or greater protection.
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- 6487 5) Except as provided in subsection (f) of this Section, requirements for
6488 groundwater monitoring and corrective action that are sufficient to do the
6489 following:
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 - 6491 A) Continue to detect and to characterize the nature, extent,
6492 concentration, direction, and movement of existing releases of
6493 hazardous constituents in groundwater from sources located within
6494 the CAMU;
 - 6495
 - 6496 B) Detect and subsequently characterize releases of hazardous
6497 constituents to groundwater that may occur from areas of the
6498 CAMU in which wastes will remain in place after closure of the
6499 CAMU; and
 - 6500
 - 6501 C) Require notification to the Agency and corrective action as
6502 necessary to adequately protect human health and the environment
6503 for releases to groundwater from the CAMU.
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- 6505 6) Except as provided in subsection (f) of this Section, closure and post-

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closure requirements, as follows:

- A) Closure of corrective action management units must do the following:
 - i) Minimize the need for further maintenance; and
 - ii) Control, minimize, or eliminate, to the extent necessary to adequately protect human health and the environment, for areas where wastes remain in place, post-closure escape of hazardous wastes, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, to surface waters, or to the atmosphere.

- B) Requirements for closure of a CAMU must include the following, as appropriate and as deemed necessary by the Agency for a given CAMU:
 - i) Requirements for excavation, removal, treatment or containment of wastes; and
 - ii) Requirements for removal and decontamination of equipment, devices, and structures used in CAMU-eligible waste management activities within the CAMU.

- C) In establishing specific closure requirements for a CAMU pursuant to this subsection (e), the Agency must consider the following factors:
 - i) CAMU characteristics;
 - ii) Volume of wastes that remain in place after closure;
 - iii) Potential for releases from the CAMU;
 - iv) Physical and chemical characteristics of the waste;
 - v) ~~Hydrogeological~~~~Hydrological~~ and other relevant environmental conditions at the facility that may influence the migration of any potential or actual releases; and
 - vi) Potential for exposure of humans and environmental

receptors if releases were to occur from the CAMU.

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D) Cap requirements:

i) At final closure of the CAMU, for areas in which wastes will remain with constituent concentrations at or above remedial levels or goals applicable to the site after closure of the CAMU, the owner or operator must cover the CAMU with a final cover designed and constructed to meet the performance criteria listed in subsection (e)(6)(F) of this Section, except as provided in subsection (e)(6)(D)(ii) of this Section:

BOARD NOTE: The Board has codified 40 CFR 264.552(e)(6)(iv)(A)(1) through (e)(6)(iv)(A)(5) as subsections (e)(6)(F)(i) through (e)(6)(F)(v) of this Section in order to comply with Illinois Administrative Code codification requirements.

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

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

F) The final cover design and performance criteria are as follows:

- i) Provide long-term minimization of migration of liquids through the closed unit;
- ii) Function with minimum maintenance;
- iii) Promote drainage and minimize erosion or abrasion of the cover;
- iv) Accommodate settling and subsidence so that the cover's

integrity is maintained; and

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- v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.
- f) A CAMU used for storage or treatment only is a CAMU in which wastes will not remain after closure. Such a CAMU must be designated in accordance with all of the requirements of this Section, except as follows:
 - 1) A CAMU that is used for storage or treatment only and that operates in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i) is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c) and (e)(3) through (e)(6) of this Section.
 - 2) A CAMU that is used for storage or treatment only and that does not operate in accordance with the time limits established in the staging pile regulations at Section 724.654(d)(1)(C), (h), and (i):
 - A) The owner or operator must operate in accordance with a time limit, established by the Agency, that is no longer than necessary to achieve a timely remedy selected for the waste and
 - B) The CAMU is subject to the requirements for staging piles at Section 724.654(d)(1)(A) and (d)(1)(B), (d)(2), (e), (f), (j), and (k) in lieu of the performance standards and requirements for a CAMU in subsections (c), (e)(4), and (6) of this Section.
- g) A CAMU into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site do not have to comply with the requirements for liners at subsection (e)(3)(A) of this Section, caps at subsection (e)(6)(D) of this Section, groundwater monitoring requirements at subsection (e)(5) of this Section or, for treatment or storage-only a CAMU, the design standards at subsection (f) of this Section.
- h) The Agency must provide public notice and a reasonable opportunity for public comment before designating a CAMU. Such notice must include the rationale for any proposed adjustments pursuant to subsection (e)(4)(E) of this Section to the treatment standards in subsection (e)(4)(D) of this Section.
- i) Notwithstanding any other provision of this Section, the Agency must impose those additional requirements that it determines are necessary to adequately

6635 protect human health and the environment.

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6637 j) Incorporation of a CAMU into an existing permit must be approved by the
6638 Agency according to the procedures for Agency-initiated permit modifications
6639 pursuant to 35 Ill. Adm. Code 703.270 through 703.273, or according to the
6640 permit modification procedures of 35 Ill. Adm. Code 703.280 through 703.283.

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6642 k) The designation of a CAMU does not change the Agency's existing authority to
6643 address cleanup levels, media-specific points of compliance to be applied to
6644 remediation at a facility, or other remedy selection decisions.

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6646 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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6648 **Section 724.654 Staging Piles**

6649

6650 a) Definition of a staging pile. A staging pile is an accumulation of solid, non-
6651 flowing remediation waste (as defined in 35 Ill. Adm. Code 720.110) that is not a
6652 containment building and which is used only during remedial operations for
6653 temporary storage at a facility. A staging pile must be located within the
6654 contiguous property under the control of the owner or operator where the wastes
6655 to be managed in the staging pile originated. Staging piles must be designated by
6656 the Agency in accordance with the requirements in this Section.

6657

6658 1) For the purposes of this Section, storage includes mixing, sizing, blending,
6659 or other similar physical operations as long as they are intended to prepare
6660 the wastes for subsequent management or treatment.

6661

6662 2) This subsection (a)(2) corresponds with 40 CFR 264.554(a)(2), which
6663 USEPA has marked as "reserved." This statement maintains structural
6664 consistency with the federal regulations.

6665

6666 b) Use of a staging pile. An owner or operator may use a staging pile to store
6667 hazardous remediation waste (or remediation waste otherwise subject to land
6668 disposal restrictions) only if an owner or operator follows the standards and
6669 design criteria the Agency has designated for that staging pile. The Agency must
6670 designate the staging pile in a permit or, at an interim status facility, in a closure
6671 plan or order (consistent with 35 Ill. Adm. Code 703.155(a)(5) and (b)(5)). The
6672 Agency must establish conditions in the permit, closure plan, or order that comply
6673 with subsections (d) through (k) of this Section.

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6675 c) Information that an owner or operator must submit to gain designation of a
6676 staging pile. When seeking a staging pile designation, an owner or operator must
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- 1) Sufficient and accurate information to enable the Agency to impose standards and design criteria for the facility's staging pile according to subsections (d) through (k) of this Section;
 - 2) Certification by ~~an independent~~, qualified Professional Engineer ~~registered professional engineer~~ of technical data, such as design drawings and specifications, and engineering studies, unless the Agency determines, based on information that an owner or operator provides, that this certification is not necessary to ensure that a staging pile will adequately protect human health and the environment; and
 - 3) Any additional information the Agency determines is necessary to adequately protect human health and the environment.
- d) Performance criteria that a staging pile must satisfy. The Agency must establish the standards and design criteria for the staging pile in the permit, closure plan, or order.
- 1) The standards and design criteria must comply with the following:
 - A) The staging pile must facilitate a reliable, effective, and protective remedy;
 - B) The staging pile must be designed so as to prevent or minimize releases of hazardous wastes and hazardous constituents into the environment, and minimize or adequately control cross-media transfer, as necessary to adequately protect human health and the environment (for example, through the use of liners, covers, or runoff and runoff controls, as appropriate); and
 - C) The staging pile must not operate for more than two years, except when the Agency grants an operating term extension pursuant to subsection (i) of this Section. An owner or operator must measure the two-year limit or other operating term specified by the Agency in the permit, closure plan, or order from the first time an owner or operator places remediation waste into a staging pile. An owner or operator must maintain a record of the date when it first placed remediation waste into the staging pile for the life of the permit, closure plan, or order, or for three years, whichever is longer.
 - 2) In setting the standards and design criteria, the Agency must consider the following factors:

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- A) The length of time the pile will be in operation;
 - B) The volumes of wastes the owner or operator intends to store in the pile;
 - C) The physical and chemical characteristics of the wastes to be stored in the unit;
 - D) The potential for releases from the unit;
 - E) The hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and
 - F) The potential for human and environmental exposure to potential releases from the unit.
- 6739 e) Receipt of ignitable or reactive remediation waste. An owner or operator must
 6740 not place ignitable or reactive remediation waste in a staging pile unless the
 6741 following is true:
- 6742
 6743 1) The owner or operator has treated, rendered, or mixed the remediation
 6744 waste before it placed the waste in the staging pile so that the following is
 6745 true of the waste:
- 6746 A) The remediation waste no longer meets the definition of ignitable
 6747 or reactive pursuant to 35 Ill. Adm. Code 721.121 or 721.123; and
 - 6748 B) The owner or operator has complied with Section 724.117(b); or
- 6749
 6750 2) The owner or operator manages the remediation waste to protect it from
 6751 exposure to any material or condition that may cause it to ignite or react.
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- 6755 f) Managing incompatible remediation wastes in a staging pile. The term
 6756 "incompatible waste" is defined in 35 Ill. Adm. Code 720.110. An owner or
 6757 operator must comply with the following requirements for incompatible wastes in
 6758 staging piles:
- 6759 1) The owner or operator must not place incompatible remediation wastes in
 6760 the same staging pile unless an owner or operator has complied with
 6761 Section 724.117(b);
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- 2) If remediation waste in a staging pile is incompatible with any waste or material stored nearby in containers, other piles, open tanks, or land disposal units (for example, surface impoundments), an owner or operator must separate the incompatible materials, or protect them from one another by using a dike, berm, wall, or other device; and
 - 3) The owner or operator must not pile remediation waste on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to comply with Section 724.117(b).
 - g) Staging piles are not subject to land disposal restrictions and federal minimum technological requirements. Placing hazardous remediation wastes into a staging pile does not constitute land disposal of hazardous wastes or create a unit that is subject to the federal minimum technological requirements of section 3004(o) of RCRA, 42 USC 6924(o).
 - h) How long an owner or operator may operate a staging pile. The Agency may allow a staging pile to operate for up to two years after hazardous remediation waste is first placed into the pile. An owner or operator must use a staging pile no longer than the length of time designated by the Agency in the permit, closure plan, or order (the "operating term"), except as provided in subsection (i) of this Section.
 - i) Receiving an operating extension for a staging pile.
 - 1) The Agency may grant one operating term extension of up to 180 days beyond the operating term limit contained in the permit, closure plan, or order (see subsection (l) of this Section for modification procedures). To justify the need for an extension, an owner or operator must provide sufficient and accurate information to enable the Agency to determine that the following is true of continued operation of the staging pile:
 - A) Continued operation will not pose a threat to human health and the environment; and
 - B) Continued operation is necessary to ensure timely and efficient implementation of remedial actions at the facility.
 - 2) The Agency must, as a condition of the extension, specify further standards and design criteria in the permit, closure plan, or order, as necessary, to ensure adequate protection of human health and the environment.

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- j) The closure requirement for a staging pile located in a previously contaminated area.
 - 1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in a previously contaminated area of the site by removing or decontaminating all of the following:
 - A) Remediation waste;
 - B) Contaminated containment system components; and
 - C) Structures and equipment contaminated with waste and leachate.
 - 2) An owner or operator must also decontaminate contaminated subsoils in a manner and according to a schedule that the Agency determines will adequately protect human health and the environment.
 - 3) The Agency must include the above requirements in the permit, closure plan, or order in which the staging pile is designated.

- k) The closure requirement for a staging pile located in a previously uncontaminated area.
 - 1) Within 180 days after the operating term of the staging pile expires, an owner or operator must close a staging pile located in an uncontaminated area of the site according to Sections 724.358(a) and 724.211 or according to 35 Ill. Adm. Code 725.358(a) and 725.211.
 - 2) The Agency must include the requirement of this Section stated in subsection (k)(1) in the permit, closure plan, or order in which the staging pile is designated.

- l) Modifying an existing permit (e.g., a RAP), closure plan, or order to allow the use of a staging pile.
 - 1) To modify a permit, other than a RAP, to incorporate a staging pile or staging pile operating term extension, either of the following must occur:
 - A) The Agency must approve the modification pursuant to the procedures for Agency-initiated permit modifications in 35 Ill. Adm. Code 703.270 through 703.273; or

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6851 B) An owner or operator must request a Class 2 modification pursuant
6852 to 35 Ill. Adm. Code 703.280 through 703.283.
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6854 2) To modify a RAP to incorporate a staging pile or staging pile operating
6855 term extension, an owner or operator must comply with the RAP
6856 modification requirements pursuant to 35 Ill. Adm. Code 703.304(a) and
6857 (b).
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6859 3) To modify a closure plan to incorporate a staging pile or staging pile
6860 operating term extension, an owner or operator must follow the applicable
6861 requirements pursuant to Section 724.212(c) or 35 Ill. Adm. Code
6862 725.212(c).
6863
6864 4) To modify an order to incorporate a staging pile or staging pile operating
6865 term extension, an owner or operator must follow the terms of the order
6866 and the applicable provisions of 35 Ill. Adm. Code 703.155(a)(5) or (b)(5).
6867
6868 m) Public availability of information about a staging pile. The Agency must
6869 document the rationale for designating a staging pile or staging pile operating
6870 term extension and make this documentation available to the public.
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6872 (Source: Amended at 32 Ill. Reg. _____, effective _____)
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6874 SUBPART W: DRIP PADS
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6876 **Section 724.671 Assessment of Existing Drip Pad Integrity**
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- 6878 a) For each existing drip pad, the owner or operator must evaluate the drip pad and
6879 determine ~~whether~~that it meets all of the requirements of this Subpart W, except
6880 the requirements for liners and leak detection systems of Section 724.673(b). No
6881 later than June 6, 1991, the owner or operator must obtain and keep on file at the
6882 facility a written assessment of the drip pad, reviewed and certified by ~~an~~
6883 ~~independent,~~ qualified Professional Engineer~~registered professional engineer~~ that
6884 attests to the results of the evaluation. The assessment must be reviewed, updated,
6885 and re-certified annually until all upgrades, repairs or modifications necessary to
6886 achieve compliance with all ~~of~~the standards of Section 724.673 are complete.
6887 The evaluation must document the extent to which the drip pad meets each of the
6888 design and operating standards of Section 724.673, except the standards for liners
6889 and leak detection systems, specified in Section 724.673(b).
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6891 b) The owner or operator must develop a written plan for upgrading, repairing, and
6892 modifying the drip pad to meet the requirements of Section 724.673(b) and

submit the plan to the Agency no later than two years before the date that all repairs, upgrades and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 724.673. The plan must be reviewed and certified by ~~an independent~~ qualified Professional Engineer; ~~registered professional engineer~~. All upgrades, repairs and modifications must be completed in accordance with the following:

- 1) ~~For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must have been completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.~~
- 2) ~~For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.~~
- 3) ~~The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.~~
 - A) ~~The owner or operator must file a petition for a RCRA variance, as specified in 35 Ill. Adm. Code 104.~~
 - B) ~~The Board will grant the petition for extension if it finds the following:~~
 - i) ~~The drip pad meets all of the requirements of Section 724.673, except those for liners and leak detection systems specified in Section 724.673(b); and~~
 - ii) ~~That it will continue to adequately protect human health and the environment.~~
- c) Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Agency, the as-built drawings for the drip pad, together with a certification by ~~an independent,~~ qualified 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 724.672(m) or close the drip pad in accordance with Section 724.675.

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

Section 724.673 Design and Operating Requirements

- a) Drip pads must fulfill the following:
 - 1) Not be constructed of ~~non-earthen~~earthen materials, wood, or asphalt, unless the asphalt is structurally supported;
 - 2) 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) Have a curb or berm around the perimeter;
 - 4) In addition, the drip pad must fulfill the following:
 - A) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second (cm/sec), 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} cm/sec 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 ~~724.672(b)~~724.672(a) instead of Section ~~724.672(a)~~724.672(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) Be of sufficient structural strength and thickness to prevent failure due to

6979 physical contact, climatic conditions, the stress of installation, and the
6980 stress of daily operations, e.g., variable and moving loads such as vehicle
6981 traffic, movement of wood, etc.
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6983 BOARD NOTE: In judging the structural integrity requirement of this
6984 subsection (c), the Agency should generally consider applicable standards
6985 established by professional organizations generally recognized by the
6986 industry, including ACI 318 (Building Code Requirements for Reinforced
6987 Concrete), or ASTM C 94-90 (Standard Specification for Ready-Mixed
6988 Concrete), each incorporated by reference in 35 Ill. Adm. Code
6989 720.111(a).
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- 6991 b) If an owner or operator elects to comply with Section ~~724.672(a)~~
6992 ~~724.672(b)~~ instead of Section ~~724.672(b)~~
6993 ~~724.672(a)~~, the drip pad must have the following:
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6995 1) A synthetic liner installed below the drip pad that is designed, constructed,
6996 and installed to prevent leakage from the drip pad into the adjacent
6997 subsurface soil or groundwater or surface water at any time during the
6998 active life (including the closure period) of the drip pad. The liner must be
6999 constructed of materials that will prevent waste from being absorbed into
7000 the liner and to prevent releases into the adjacent subsurface soil or
7001 groundwater or surface water during the active life of the facility. The
7002 liner must fulfill the following:
7003 A) It must be constructed of materials that have appropriate chemical
7004 properties and sufficient strength and thickness to prevent failure
7005 due to pressure gradients (including static head and external
7006 hydrogeologic forces), physical contact with the waste or drip pad
7007 leakage to which they are exposed, climatic conditions, the stress
7008 of installation and the stress of daily operation (including stresses
7009 from vehicular traffic on the drip pad);
7010 B) It must be placed upon a foundation or base capable of providing
7011 support to the liner and resistance to pressure gradients above and
7012 below the liner to prevent failure of the liner due to settlement,
7013 compression or uplift; and
7014 C) It must be installed to cover all surrounding earth that could come
7015 in contact with the waste or leakage; and
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7017 2) A leakage detection system immediately above the liner that is designed,
7018 constructed, maintained, and operated to detect leakage from the drip pad.
7019 The leakage detection system must fulfill the following:
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- A) It must be constructed of materials that are as follows:
 - i) Chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and
 - ii) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and
 - B) It must be designed and operated to function without clogging through the scheduled closure of the drip pad; and
 - C) It must be designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time.
- 3) A leaking collection system immediately above the liner that is designed, constructed, maintained, and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.
- A) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as to allow weekly inspections of the entire drip pad surface without interference of hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and cleaning procedure used in the facility's operating log. The owner or operator must determine if the residues are hazardous, as per 35 Ill. Adm. Code 722.111, and, if so, the owner or operator must manage them under 35 Ill. Adm. Code 721 through 728, and Section 3010 of RCRA.
 - B) The federal rules do not contain a 40 CFR 264.573(b)(3)(B). This subsection (b) is added to conform to Illinois Administrative Code rules.
- c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad.

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

- d) The drip pad and associated collection system must be designed and operated to convey, drain, and collect liquid resulting from drippage or precipitation in order to prevent run-off.
- e) Unless the drip pad is protected by a structure, as described in Section 724.670(b), the owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm, unless the system has sufficient excess capacity to contain any run-on that might enter the system.
- f) Unless the drip pad is protected by a structure or cover, as described in Section 724.670(b), the owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.
- g) The drip pad must be evaluated to determine that it meets the requirements of subsections (a) through (f) of this Section. The owner or operator must obtain a statement from ~~an independent, qualified Professional Engineer~~~~registered professional engineer~~ certifying that the drip pad design meets the requirements of this Section.
- h) Drippage and accumulated precipitation must be removed from the associated collection system as necessary to prevent overflow onto the drip pad.
- i) The drip surface must be cleaned thoroughly at least once every seven days such that accumulated residues of hazardous waste or other materials are removed, using an appropriate and effective cleaning technique, including but not limited to, rinsing, washing with detergents or other appropriate solvents, or steam cleaning. The owner or operator must document, in the facility's operating log, the date and time of each cleaning and the cleaning procedure used.
- j) Drip pads must be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.
- k) After being removed from the treatment vessel, treated wood from pressure and non-pressure processes must be held on the drip pad until drippage has ceased. The owner or operator must maintain records sufficient to document that all treated wood is held on the pad, in accordance with this Section, following

- 7108 treatment.
- 7109
- 7110 l) Collection and holding units associated with run-on and run-off control systems
- 7111 must be emptied or otherwise managed as soon as possible after storms to
- 7112 maintain design capacity of the system.
- 7113
- 7114 m) Throughout the active life of the drip pad and as specified in the permit, if the
- 7115 owner or operator detects a condition that could lead to or has caused a release of
- 7116 hazardous waste, the condition must be repaired within a reasonably prompt
- 7117 period of time following discovery, in accordance with the following procedures:
- 7118
- 7119 1) Upon detection of a condition that may have caused or has caused a
- 7120 release of hazardous waste (e.g., upon detection of leakage in the leak
- 7121 detection system), the owner or operator must do the following:
- 7122
- 7123 A) Enter a record of the discovery in the facility operating log;
- 7124
- 7125 B) Immediately remove from service the portion of the drip pad
- 7126 affected by the condition;
- 7127
- 7128 C) Determine what steps must be taken to repair the drip pad, clean up
- 7129 any leakage from below the drip pad, and establish a schedule for
- 7130 accomplishing the clean up and repairs;
- 7131
- 7132 D) Within 24 hours after discovery of the condition, notify the
- 7133 Agency of the condition and, within 10 working days, provide
- 7134 written notice to the Agency with a description of the steps that
- 7135 will be taken to repair the drip pad and clean up any leakage, and
- 7136 the schedule for accomplishing this work.
- 7137
- 7138 2) The Agency must do the following: review the information submitted,
- 7139 make a determination regarding whether the pad must be removed from
- 7140 service completely or partially until repairs and ~~clean up~~ are
- 7141 complete, and notify the owner or operator of the determination and the
- 7142 underlying rationale in writing.
- 7143
- 7144 3) Upon completing all repairs and clean up, the owner or operator must
- 7145 notify the Agency in writing and provide a certification, signed by an
- 7146 independent, qualified registered professional engineer, that the repairs
- 7147 and ~~clean up~~ have been completed according to the written plan
- 7148 submitted in accordance with subsection (m)(1)(D) of this Section.
- 7149
- 7150 n) If a permit is necessary, the Agency must specify in the permit all design and

7151 operating practices that are necessary to ensure that the requirements of this
7152 Section are satisfied.

7153
7154 o) The owner or operator must maintain, as part of the facility operating log,
7155 documentation of past operating and waste handling practices. This must include
7156 identification of preservative formulations used in the past, a description of
7157 drippage management practices, and a description of treated wood storage and
7158 handling practices.

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7160 (Source: Amended at 32 Ill. Reg. _____, effective _____)

7161
7162 **Section 724.674 Inspections**

7163
7164 a) During construction or installation, liners and cover systems (e.g., membranes,
7165 sheets, or coatings) must be inspected for uniformity, damage, and imperfections
7166 (e.g., holes, cracks, thin spots, or foreign materials). Immediately after
7167 construction or installation, liners must be inspected and certified by a qualified
7168 Professional Engineer as meeting the requirements set forth in Section 724.673
7169 by an independent, qualified registered professional engineer. The certification
7170 must be maintained at the facility as part of the facility operating record. After
7171 installation liners and covers must be inspected to ensure tight seams and joints
7172 and the absence of tears, punctures, or blisters.

7173
7174 b) While a drip pad is in operation, it must be inspected weekly and after storms to
7175 detect evidence of any of the following:
7176
7177 1) Deterioration, malfunctions, or improper operation of run-on and run-off
7178 control systems;
7179
7180 2) The presence of leakage in and proper functioning of leak detection
7181 system.
7182
7183 3) Deterioration or cracking of the drip pad surface.

7184
7185 BOARD NOTE: See Section 724.672(m) for remedial action required if
7186 deterioration or leakage is detected.

7187
7188 (Source: Amended at 32 Ill. Reg. _____, effective _____)

7189
7190 **SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS**

7191
7192 **Section 724.936 Reporting Requirements**

7193

- 7194 a) A semiannual report must be submitted by owners and operators subject to the
7195 requirements of this Subpart AA to the Agency by dates specified in the RCRA
7196 permit. The report must include the following information:
7197
 - 7198 1) The USEPA identification number (35 Ill. Adm. Code 722.112), name,
7199 and address of the facility.
 - 7200 2) For each month during the semiannual reporting period the following:
7201
 - 7202 A) Dates when the control device did the following:
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 - 7204 i) Exceeded or operated outside of the design specifications,
7205 as defined in Section 724.935(c)(4); and
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 - 7207 ii) Such ~~exceedances~~~~exceedences~~ were not corrected within 24
7208 hours, or that a flare operated with visible emissions, as
7209 defined by Method 22 monitoring;
 - 7210 B) The duration and cause of each ~~exceedance~~~~exceedence~~ or visible
7211 emissions; and
 - 7212 C) Any corrective measures taken.
- 7213 b) If during the semiannual reporting period, the control device does not exceed or
7214 operate outside of the design specifications, as defined in Section 724.935(c)(4),
7215 for more than 24 hours or a flare does not operate with visible emissions, as
7216 defined in Section 724.933(d), a report to the Agency is not required.

7217 (Source: Amended at 32 Ill. Reg. _____, effective _____)

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7223
7224 **SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS**

7225
7226 **Section 724.961 Alternative Percentage Standard for Valves**

- 7227 a) An owner or operator subject to the requirements of Section 724.957 may elect to
7228 have all valves within a hazardous waste management unit comply with an
7229 alternative standard that allows no greater than two percent of the valves to leak.
7230
- 7231 b) The following requirements must be met if an owner or operator decides to
7232 comply with the alternative standard of allowing two percent of valves to leak:
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 - 7234 1) ~~An owner or operator must notify the Agency that the owner or operator~~
7235 ~~has elected to comply with the requirements of this Section.~~
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~~12)~~ A performance test as specified in subsection (c) of this Section must be conducted initially upon designation, annually and other times specified in the RCRA permit.

~~23)~~ If a valve leak is detected it must be repaired in accordance with Section 724.957(d) and (e).

c) Performance tests must be conducted in the following manner:

- 1) All valves subject to the requirements in Section 724.957 within the hazardous waste management unit must be monitored within one week by the methods specified in Section 724.963(b).
- 2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.
- 3) The leak percentage must be determined by dividing the number of valves subject to the requirements in Section 724.957 for which leaks are detected by the total number of valves subject to the requirements in Section 724.957 within the hazardous waste management unit.

~~d) If an owner or operator decides to comply with this Section no longer, the owner or operator must notify the Agency in writing that the work practice standard described in Section 724.957(a) through (e) will be followed.~~

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

Section 724.962 Skip Period Alternative for Valves

~~a) Election.~~

~~a1)~~ An owner or operator subject to the requirements of Section 724.957 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in subsections (b)(2) and (b)(3) of this Section.

~~2)~~ An owner or operator must notify the Agency before implementing one of the alternative work practices.

b) Reduced Monitoring.

1) An owner or operator must comply with the requirements for valves, as

- 7280 described in Section 724.957, except as described in subsections (b)(2)
7281 and (b)(3).
7282
7283 2) After two consecutive quarterly leak detection periods with the percentage
7284 of valves leaking equal to or less than two percent, an owner or operator
7285 may begin to skip one of the quarterly leak detection periods (i.e., the
7286 owner or operator may monitor for leaks once every six months) for the
7287 valves subject to the requirements in Section 724.957.
7288
7289 3) After five consecutive quarterly leak detection periods with the percentage
7290 of valves leaking equal to or less than two percent, an owner or operator
7291 may begin to skip three of the quarterly leak detection periods (i.e., the
7292 owner or operator may monitor for leaks once every year) for the valves
7293 subject to the requirements in Section 724.957.
7294
7295 4) If the percentage of valves leaking is greater than 2 percent, the owner or
7296 operator must monitor monthly in compliance with the requirements in
7297 Section 724.957, but may again elect to use this Section after meeting the
7298 requirements of Section 724.957(c)(1).
7299

7300 (Source: Amended at 32 Ill. Reg. _____, effective _____)
7301

7302 **Section 724.965 Reporting Requirements**
7303

- 7304 a) A semiannual report must be submitted by owners and operators subject to the
7305 requirements of this Subpart BB to the Agency by dates specified in the RCRA
7306 permit. The report must include the following information:
7307
7308 1) The USEPA identification number (35 Ill. Adm. Code 722.112), name,
7309 and address of the facility.
7310
7311 2) For each month during the semiannual reporting period, the following:
7312
7313 A) The equipment identification number of each valve for which a
7314 leak was not repaired, as required in Section 724.957(d).
7315
7316 B) The equipment identification number of each pump for which a
7317 leak was not repaired, as required in Section 724.952(c) and
7318 (d)(6).
7319
7320 C) The equipment identification number of each compressor for
7321 which a leak was not repaired, as required in Section 724.953(g);
7322

- 7323 3) Dates of hazardous waste management unit shutdowns that occurred
7324 within the semiannual reporting period.
7325
- 7326 4) For each month during the semiannual reporting period, dates when the
7327 control device installed as required by Sections 724.952, 724.953,
7328 724.954, or 724.955, exceeded or operated outside of the design
7329 specifications, as defined in Section 724.964(e) and as indicated by the
7330 control device monitoring required by Section 724.960 and was not
7331 corrected within 24 hours, the duration and cause of each
7332 ~~exceedance~~~~exceedence~~, and any corrective measures taken.
7333
- 7334 b) If, during the semiannual reporting period, leaks from valves, pumps, and
7335 compressors are repaired as required in Sections 724.957(d), 724.952(c) and
7336 (d)(6), and 724.953(g), respectively, and the control device does not exceed or
7337 operate outside of the design specifications, as defined in Section 724.964(e) for
7338 more than 24 hours, a report to the Agency is not required.
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7340 (Source: Amended at 32 Ill. Reg. _____, effective _____)
7341

7342 SUBPART DD: CONTAINMENT BUILDINGS
7343

7344 **Section 724.1100 Applicability**
7345

7346 The requirements of this Subpart DD apply to owners or operators who store or treat hazardous
7347 waste in units designed and operated under Section 724.1101. ~~These provisions became~~
7348 ~~effective on February 18, 1993.~~ The owner or operator is not subject to the definition of land
7349 disposal in 35 Ill. Adm. Code 728.102 provided that the unit fulfills the following:
7350

- 7351 a) It is a completely enclosed, self-supporting structure that is designed and
7352 constructed of manmade materials of sufficient strength and thickness to support
7353 themselves, the waste contents, and any personnel and heavy equipment that
7354 operate within the unit, and to prevent failure due to the following:
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- 7356 1) pressure gradients;
 - 7357
 - 7358 2) settlement, compression, or uplift;
 - 7359
 - 7360 3) physical contact with the hazardous wastes to which they are exposed;
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 - 7362 4) climatic conditions; or
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 - 7364 5) the stresses of daily operation including the movement of heavy
7365 equipment within the unit and contact of such equipment within the unit

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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:
 - 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 practicable time, unless the unit has been granted a variance from the secondary containment system requirements under Section 724.1101(b)(4);
- d) It has controls sufficient to permit fugitive dust emissions to meet the no visible emission standard in Section 724.1101(c)(1)(A); 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 _____)

Section 724.1101 Design and Operating Standards

- a) All containment buildings must comply with the following design and operating standards:
 - 1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g., precipitation, wind, 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

7409 with the hazardous wastes to which they are exposed; climatic conditions;
 7410 and the stresses of daily operation, including the movement of heavy
 7411 equipment within the unit and contact of such equipment with containment
 7412 walls. The unit must be designed so that it has sufficient structural
 7413 strength to prevent collapse or other failure. All surfaces to be in contact
 7414 with hazardous wastes must be chemically compatible with those wastes.
 7415 The containment building must meet the structural integrity requirements
 7416 established by professional organizations generally recognized by the
 7417 industry such as the American Concrete Institute (ACI) and the American
 7418 Society of Testing Materials (ASTM). If appropriate to the nature of the
 7419 waste management operation to take place in the unit, an exception to the
 7420 structural strength requirement may be made for light-weight doors and
 7421 windows that meet the following criteria:
 7422

- 7423 A) They provide an effective barrier against fugitive dust emissions
 7424 under subsection (c)(1)(C) of this Section; and
 7425
- 7426 B) The unit is designed and operated in a fashion that assures that
 7427 wastes will not actually come in contact with these openings.
 7428

7429 3) Incompatible hazardous wastes or treatment reagents must not be placed in
 7430 the unit or its secondary containment system if they could cause the unit or
 7431 secondary containment system to leak, corrode, or otherwise fail.
 7432

7433 4) A containment building must have a primary barrier designed to withstand
 7434 the movement of personnel, waste, and handling equipment in the unit
 7435 during the operating life of the unit and appropriate for the physical and
 7436 chemical characteristics of the waste to be managed.
 7437

7438 b) For a containment building used to manage hazardous wastes containing free
 7439 liquids or treated with free liquids (the presence of which is determined by the
 7440 paint filter test, a visual examination, or other appropriate means), the owner or
 7441 operator must include the following:
 7442

- 7443 1) A primary barrier designed and constructed of materials to prevent the
 7444 migration of hazardous constituents into the barrier (e.g., a geomembrane
 7445 covered by a concrete wear surface).
 7446
- 7447 2) A liquid collection and removal system to minimize the accumulation of
 7448 liquid on the primary barrier of the containment building, as follows:
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- 7450 A) The primary barrier must be sloped to drain liquids to the
 7451 associated collection system; and

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

- 3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.
 - A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:
 - i) It is constructed with a bottom slope of 1 percent or more; and
 - ii) It is constructed of a granular drainage material with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m²/sec or more.

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

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

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

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

7538 electrostatic precipitator, etc.) must be operated and maintained
7539 with sound air pollution control practices (see 40 CFR 60 for
7540 guidance). This state of no visible emissions must be maintained
7541 effectively at all times during routine operating and maintenance
7542 conditions, including when vehicles and personnel are entering and
7543 exiting the unit.

7544
7545 BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv) (2005), USEPA
7546 cites "40 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (Aug.
7547 18, 1992), USEPA repeats this citation in the preamble discussion
7548 of adoption of the rules. No such provision exists in the Code of
7549 Federal Regulations. While ~~section 40 CFR 60.292~~ of the federal
7550 regulations pertains to control of fugitive dust emissions, that
7551 provision is limited in its application to glass melting furnaces.
7552 The Board has chosen to use the general citation: "40 CFR 60."
7553

7554 2) ~~It must obtain and keep on site a~~ Obtain certification by a qualified
7555 ~~Professional Engineer~~ registered professional engineer (PE) that the
7556 containment building design meets the requirements of subsections (a)
7557 through (c) of this Section. ~~For units placed into operation prior to~~
7558 ~~February 18, 1993, this certification must have been placed in the facility's~~
7559 ~~operating record (on-site files for generators that are not formally required~~
7560 ~~to have operating records) no later than 60 days after the date of initial~~
7561 ~~operation of the unit. After February 18, 1993, PE certification has been~~
7562 ~~required prior to operation of the unit.~~

7563
7564 3) Throughout the active life of the containment building, if the owner or
7565 operator detects a condition that could lead to or has caused a release of
7566 hazardous waste, it must repair the condition promptly, in accordance with
7567 the following procedures. ~~In addition, however the following is required:~~

7568
7569 A) Upon detection of a condition that has lede caused to a release of
7570 hazardous wastes (e.g., upon detection of leakage from the primary
7571 barrier) the owner or operator must do the following:

7572
7573 i) Enter a record of the discovery in the facility operating
7574 record;

7575
7576 ii) Immediately remove the portion of the containment
7577 building affected by the condition from service;

7578
7579 iii) Determine what steps must be taken to repair the
7580 containment building, remove any leakage from the

secondary collection system, and establish a schedule for accomplishing the cleanup and repairs; and

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

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

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

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

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

1) Design and operate each area in accordance with the requirements enumerated in subsections (a) through (c) of this Section;

2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment; and

- 7624 3) Maintain in the facility's operating log a written description of the
7625 operating procedures used to maintain the integrity of areas without
7626 secondary containment.
7627
- 7628 e) Notwithstanding any other provision of this Subpart DD, the Agency must, in
7629 writing, allow the use of alternatives to the requirements for not require secondary
7630 containment for a permitted containment building where the Agency has
7631 determined that the facility owner or operator has adequately
7632 demonstrated demonstrates that the only free liquids in the unit are limited
7633 amounts of dust suppression liquids required to meet occupational health and
7634 safety requirements, and where containment of managed wastes and liquids can
7635 be assured without a secondary containment system.
7636

7637 (Source: Amended at 32 Ill. Reg. _____, effective _____)