

ILLINOIS POLLUTION CONTROL BOARD  
May 7, 1992

IN THE MATTER OF: )  
 )  
RCRA UPDATE, USEPA REGULATIONS) R92-1  
(7/1/91 - 12/31/91) ) (Identical in Substance  
 ) Rules)

Proposal For Public Comment

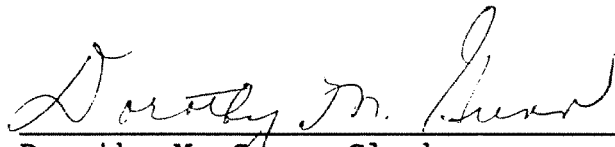
PROPOSED ORDER OF THE BOARD (by J. Anderson):

Pursuant to Section 7.2 and 22.4(a) of the Environmental Protection Act (Act), the Board is proposing to amend the RCRA hazardous waste regulations. The amendments involve 35 Ill. Adm. Code 720, 721, 722, 724 and 725. The Board will receive public comment for 45 days after the date of publication of the proposed rules in the Illinois Register.

The complete text of the rules is attached to this Order. This Proposed Order is supported by a Proposed Opinion adopted this same day.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above proposed order was adopted on the 7<sup>th</sup> day of May, 1992, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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

PART 720  
 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section  
 720.101 Purpose, Scope and Applicability  
 720.102 Availability of Information; Confidentiality of  
 Information  
 720.103 Use of Number and Gender

SUBPART B: DEFINITIONS

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SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

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 720.141 Procedures for case-by-case regulation of hazardous  
 waste Recycling Activities

Appendix A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-19 at 7 Ill. Reg. 14015, effective Oct. 12, 1983; amended in R84-9, 53 PCB 131 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987;

amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. , effective ; amended in R92-1 at 16 Ill. Reg. , effective

#### SUBPART B: DEFINITIONS

##### Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726 and 728 only, the following terms have the meanings given below:

"Aboveground tank" means a device meeting the definition of "tank" that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

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

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

"Active portion" means that portion of a facility where treatment, storage or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion".)

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

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings,

flanges, valves and pumps, that is used to distribute, meter or control the flow of hazardous waste from its point of generation to storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

"Board" means the Illinois Pollution Control Board.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids or heated gases; and the unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"Closed Portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

"Component" means either the tank or ancillary equipment of a tank system.

"Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

"Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National

Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage or disposal facility,

Which:

Has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703 and 705;

Has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (~~1989~~1991);

Has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (~~1989~~1991); or

Is regulated under 35 Ill. Adm. Code 721.106(c)(2) or 266.Subpart F; and

Which has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

If a waste is destined to a facility in a state, other than Illinois, which has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids or other materials.

"Director" means the Director of the Illinois Environmental Protection Agency.

"Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any

constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

"Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water run-on to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or are listed in 35 Ill. Adm. Code 721.Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in this Section.

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

"EPA hazardous waste number" or "USEPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721.Subpart C.

"EPA identification number" or "USEPA identification number" means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator, transporter and treatment, storage or disposal facility.

"EPA region" means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana and Texas

Region VII: Nebraska, Kansas, Missouri and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho and Alaska

"Equivalent method" means any testing or analytical method approved by the Board pursuant to Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction and either:

A continuous on-site, physical construction program had begun or

The owner or operator had entered into contractual obligations -- which could not be cancelled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

"Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

"Existing tank system" or "existing component" means a



tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be canceled or modified without substantial loss -- for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (e.g., one or more landfills, surface impoundments or combinations of them).

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

"Federal agency" means any department, agency or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation and the Government Printing Office.

"Federal, state and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

"Food-chain crops" means tobacco, crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top

of a tank or surface impoundment dike and the surface of the waste contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

"Generator" means any person, by site, whose act or process produce hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

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

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

"Hazardous waste constituent" means a constituent which caused the hazardous waste to be listed in 35 Ill. Adm. Code 721.Subpart D, or a constituent listed in of 35 Ill. Adm. Code 721.124.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion".)

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither:

Meets the criteria for classification as a boiler, sludge dryer or carbon regeneration unit, nor

Is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a hazardous waste which is suitable for:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.

(See 35 Ill. Adm. Code 725.Appendix E for examples.)

"Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns

Lime kilns

Aggregate kilns

Phosphate kilns

Coke ovens

Blast furnaces

Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces)

Titanium dioxide chloride process oxidation reactors

Methane reforming furnaces

Pulping liquor recovery furnaces

Combustion devices used in the recovery of sulfur values from spent sulfuric acid

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace

is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20%, as generated.

Any other such device as the Agency determines to be an "Industrial Furnace" on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

"Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

"Infrared incinerator" means any enclosed device which uses electric powered resistance heaters as a source of radiant heat and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"In operation" refers to a facility which is treating, storing or disposing of hazardous waste.

"Injection well" means a well into which fluids are being injected. (See also "underground injection".)

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, an underground mine or a cave.

"Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

"Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents or leachate.

"Leak-detection system" means a system capable of detecting the failure of either the primary or

secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

"Manifest" means the shipping document originated and signed by the generator which contains the information required by 35 Ill. Adm. Code 722.Subpart B.

"Manifest document number" means the USEPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored or disposed of and which is not a container, tank, tank system, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 35 Ill. Adm. Code 730, or a unit eligible for a research, development and demonstration permit under 35 Ill. Adm. Code 703.231.

"Movement" means that hazardous waste transported to a facility in an individual vehicle.

"New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced, after November 19, 1980. (See also "Existing hazardous waste management facility".)

"New tank system" or "new tank component" means a tank

system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system.")

"Onground tank" means a device meeting the definition of "tank" that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Open burning" means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment".)

"Operator" means the person responsible for the overall operation of a facility.

"Owner" means the person who owns a facility or part of a facility.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility which contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill

cell, surface impoundment, waste pile or other hazardous waste management unit, while other units of the same facility continue to operate.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or any interstate body.

"Personnel" or "facility personnel" means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

"Pile" means any noncontainerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device which uses a high intensity electrical discharge or arc as a source of heat and which is not listed as an industrial furnace.

"Point source" means any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"Publicly owned treatment works" or "POTW" is as defined in 35 Ill. Adm. Code 310.110.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

BOARD NOTE: "State registration" includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to Ill. Rev. Stat. 1991, ch. 111, par. 5201 and 68 Ill. Adm. Code 1380.



"Regional Administrator" means the Regional Administrator for the EPA Region in which the facility is located or the Regional Administrator's designee.

"Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Runon" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

"SIC Code" means Standard Industrial Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

"Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device which is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet weight basis.

"Small Quantity Generator" means a generator which generates less than 1000 kg of hazardous waste in a calendar month.

"Solid waste" means a solid waste as defined in 35 Ill. Adm. Code 721.102.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment or disposal facilities.

"State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

"Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation or diked area formed primarily of earthen materials (although it may be lined with manmade materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation and microwave discharge. (See also "incinerator" and "open burning".)

"Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of hazardous waste by air, rail, highway or water.

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

"Treatability study" means:

A study in which a hazardous waste is subjected to a treatment process to determine:

Whether the waste is amenable to the treatment process.

What pretreatment (if any) is required.

The optimal process conditions needed to achieve the desired treatment.

The efficiency of a treatment process for a specific waste or wastes. Or,

The characteristics and volumes of residuals from a particular treatment process.

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste or so as to render such waste non-hazardous or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed or immobilized.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface

dimension. (See also "injection well".)

"Underground tank" means a device meeting the definition of "tank" whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

"Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

"USEPA" means United States Environmental Protection Agency.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device which:

Is part of a wastewater treatment facility which has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310; and

Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

Meets the definition of tank or tank system in this Section.

"Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

"Well injection" (See "underground injection").

"Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 16 Ill. Reg. , effective )

#### Section 720.111 References

- a) The following publications are incorporated by reference:

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

ANSI B31.3 and B31.4. See ASME/ANSI B31.3 and B31.4

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

ACI 318-83: "Building Code Requirements for Reinforced Concrete", adopted September, 1983.

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

"Guide for Inspection of Refinery Equipment, Chapter XIII, Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December, 1987.

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

December, 1987.

"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November, 1987.

APTI. Available from the Air and Waste Management Association, Box 2861, Pittsburgh, PA 15230, (412) 232-3444:

APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December, 1981.

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

"Chemical Plant and Petroleum Refinery Piping", ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols", ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400:

ASTM C94-90, Standard Specification for Ready-Mixed Concrete, approved March 30, 1990.

ASTM D88-87, Standard Test Method for Saybolt Viscosity, April 24, 1981, reapproved January, 1987.

ASTM D93-85, Standard Test Methods for Flash Point by Pensky-Martens Closed Tester approved October 25, 1985.

ASTM D1946-90, Standard Practice for Analysis of Reformed Gas by Gas Chromatography, Approved March 30, 1990.

ASTM D2161-87, Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity,

March 27, 1987.

ASTM D2267-88, Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, approved November 17, 1988.

ASTM D2382-88, Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method), approved October 31, 1988.

ASTM D2879-86, Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, approved October 31, 1986.

ASTM D3828-87, Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, approved December 14, 1988.

ASTM E168-88, Standard Practices for General Techniques of Infrared Quantitative Analysis, approved May 27, 1988.

ASTM E169-87, Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, approved February 1, 1987.

ASTM E260-85, Standard Practice for Packed Column Gas Chromatography, approved June 28, 1985.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983

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

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", NACE Recommended Practice RP0285-85, approved March, 1985.

NFPA. Available from the National Fire Protection

Association, Batterymarch Park, Boston, MA 02269,  
(617) 770-3000 or (800) 344-3555:

"Flammable and Combustible Liquids Code" NFPA  
30, issued July 17, 1987. Also available  
from ANSI.

NTIS. Available from the National Technical  
Information Service, 5285 Port Royal Road,  
Springfield, VA 22161, (703) 487-4600:

"Generic Quality Assurance Project Plan for  
Land Disposal Restrictions Program", EPA/530-  
SW-87-011, March 15, 1987. (Document number  
PB 88-170766.)

"Guidance on Air Quality Models", Revised  
1986. (Document number PB86-245-248  
(Guideline) and PB88-150-958 (Supplement)).

"Methods for Chemical Analysis of Water and  
Wastes", Third Edition, March, 1983.  
(Document number PB 84-128677)

"Methods Manual for Compliance with BIF  
Regulations", December, 1990. (Document  
number PB91-120-006)

"Petitions to Delist Hazardous Wastes -- A  
Guidance Manual", EPA/530-SW-85-003, April,  
1985. (Document Number PB 85-194488)

"Procedures Manual for Ground Water  
Monitoring at Solid Waste Disposal  
Facilities", EPA-530/SW-611, 1977. (Document  
number PB 84-174820)

"Screening Procedures for Estimating the Air  
Quality Impact of Stationary Sources",  
August, 1988 (Document number PB89-159396).

"Test Methods for Evaluating Solid Waste,  
Physical/Chemical Methods," EPA Publication  
number SW-846 (Second Edition, 1982 as  
amended by Update I (April, 1984) and Update  
II (April, 1985)) (Document number PB 87-  
120291)

"Test Methods for Evaluating Solid Waste,  
Physical/Chemical Methods," EPA Publication  
number SW-846 (Third Edition, September 1986  
(Document number PB88-239223) as amended by



Revision I (December 1987) and First Update, January, 1988) (Document Number PB89-148076)).

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, (312) 498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986).

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

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells", EPA 570/9-87-002, August, 1987.

USEPA. Available from USEPA, Number F-90-WPWF-FFFFF, Room M2427, 401 M Street SW, Washington, D.C. 20460, (202) 475-9327:

"Test Method 8290: Procedures for the Detection and Measurement of PCDDs and PCDFs", EPA/530-SW-91-019 (January, 1991)

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

10 CFR 20, Appendix B (1991)

40 CFR 51.100(ii) (1991)

40 CFR 60 (1991)

40 CFR 61, Subpart V (1991)

40 CFR 136 (1991)

40 CFR 142 (1991)

40 CFR 220 (1991)

40 CFR 260.20 (1991)

40 CFR 264 (1991)

40 CFR 302.4, 302.5 and 302.6 (1991)

40 CFR 761 (1991)

c) Federal Statutes

Section 3004 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as amended through December 31, 1987.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 16 Ill. Reg. , effective )

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

PART 721  
 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

Section	
721.130	General
721.131	Hazardous Wastes From Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof
721.135	Wood Preserving Wastes
721.Appendix A	Representative Sampling Methods
721.Appendix B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
721.Appendix C	Chemical Analysis Test Methods
Table A	Analytical Characteristics of Organic Chemicals (Repealed)
Table B	Analytical Characteristics of Inorganic Species

	(Repealed)
Table C	Sample Preparation/Sample Introduction Techniques (Repealed)
721.Appendix G	Basis for Listing Hazardous Wastes
721.Appendix H	Hazardous Constituents
721.Appendix I	Wastes Excluded under Section 720.120 and 720.122
Table A	Wastes Excluded from Non-Specific Sources
Table B	Wastes Excluded from Specific Sources
Table C	Wastes Excluded From Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
Table D	Wastes Excluded by Adjusted Standard
721.Appendix J	Method of Analysis for Chlorinated Dibenzo-p- Dioxins and Dibenzofurans
721.Appendix Z	Table to Section 721.102

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. , effective ; amended in R92-1 at 16 Ill. Reg. , effective

## SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

## Section 721.122 Characteristic of Corrosivity

- a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:
- 1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using either an EPA test method or an equivalent test method (35 Ill. Adm. Code 720.121). The EPA test methods for pH ~~is~~ are specified as ~~Method 5.2~~ Methods 9040, 9041 or 9045 in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" , incorporated by reference in 35 Ill. Adm. Code 720.111. EPA Test Method 9045 for noncalcareous soils requiring blending with ASTM Type II water to form an aqueous solution prior to pH measurements shall be applicable to the pH measurement of solid phase wastes and the results shall be reported as "solid waste pH measured in water".
  - 2) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55°C (130°F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" , incorporated by reference in 35 Ill. Adm. Code 720.111, or an equivalent test method (35 Ill. Adm. Code 720.121).
- b) A solid waste that exhibits the characteristic of corrosivity has the EPA Hazardous Waste Number of D002.

(Source: Amended at 16 Ill. Reg. , effective  
)

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
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PART 722  
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section  
722.110 Purpose, Scope and Applicability  
722.111 Hazardous Waste Determination  
722.112 USEPA Identification Numbers

SUBPART B: THE MANIFEST

Section  
722.120 General Requirements  
722.121 Acquisition of Manifests  
722.122 Number of Copies  
722.123 Use of the Manifest

SUBPART C: PRE-TRANSPORT REQUIREMENTS

Section  
722.130 Packaging  
722.131 Labeling  
722.132 Marking  
722.133 Placarding  
722.134 Accumulation Time

SUBPART D: RECORDKEEPING AND REPORTING

Section  
722.140 Recordkeeping  
722.141 Annual Reporting  
722.142 Exception Reporting  
722.143 Additional Reporting  
722.144 Special Requirements for Generators of between 100 and 1000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

Section  
722.150 Applicability  
722.151 Definitions  
722.152 General Requirements  
722.153 Notification of Intent to Export  
722.154 Special Manifest Requirements  
722.155 Exception Report  
722.156 Annual Reports  
722.157 Recordkeeping

SUBPART F: IMPORTS OF HAZARDOUS WASTE

Section  
722.160 Imports of Hazardous Waste

## SUBPART G: FARMERS

Section  
722.170 Farmers

## 722.Appendix A Hazardous Waste Manifest

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. , effective ; amended in R92-1 at 16 Ill. Reg. , effective

## SUBPART E: EXPORTS OF HAZARDOUS WASTE

Section 722.153 Notification of Intent to Export

- a) The Board incorporates by reference 40 CFR 262.53 ~~(1986), as amended at 51 Fed. Reg. 28682(1991), as amended at 56 Fed. Reg. 43705, September 4, 1991.~~ This Part incorporates no future editions or amendments.
- b) A primary exporter of hazardous waste shall notify USEPA in accordance with 40 CFR 262.53.
- c) The primary exporter shall send the Agency a copy of the notice sent to USEPA pursuant to subsection (b).

(Source: Amended at 16 Ill. Reg. , effective  
)

Section 722.156 Annual Reports

- a) The Board incorporates by reference 40 CFR 262.56

~~(1986), as amended at 51 Fed. Reg. 28682 (1991), as amended at 56 Fed. Reg. 43705, September 4, 1991.~~ This Part incorporates no future editions or amendments.

- b) Primary exporters of hazardous waste shall file with USEPA, no later than March 1 of each year, a report as specified in 40 CFR 262.56.
- c) The primary exporter shall send the Agency a copy of the report sent to USEPA.

(Source: Amended at 16 Ill. Reg. , effective  
)



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

PART 724  
 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE  
 TREATMENT, STORAGE AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section

- 724.101 Purpose, Scope and Applicability  
 724.103 Relationship to Interim Status Standards

SUBPART B: GENERAL FACILITY STANDARDS

Section

- 724.110 Applicability  
 724.111 Identification Number  
 724.112 Required Notices  
 724.113 General Waste Analysis  
 724.114 Security  
 724.115 General Inspection Requirements  
 724.116 Personnel Training  
 724.117 General Requirements for Ignitable, Reactive or  
 Incompatible Wastes  
 724.118 Location Standards

SUBPART C: PREPAREDNESS AND PREVENTION

Section

- 724.130 Applicability  
 724.131 Design and Operation of Facility  
 724.132 Required Equipment  
 724.133 Testing and Maintenance of Equipment  
 724.134 Access to Communications or Alarm System  
 724.135 Required Aisle Space  
 724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

- 724.150 Applicability  
 724.151 Purpose and Implementation of Contingency Plan  
 724.152 Content of Contingency Plan  
 724.153 Copies of Contingency Plan  
 724.154 Amendment of Contingency Plan  
 724.155 Emergency Coordinator  
 724.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

- 724.170 Applicability  
 724.171 Use of Manifest System  
 724.172 Manifest Discrepancies

724.173	Operating Record
724.174	Availability, Retention and Disposition of Records
724.175	Annual Report
724.176	Unmanifested Waste Report
724.177	Additional Reports

#### SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section	
724.190	Applicability
724.191	Required Programs
724.192	Groundwater Protection Standard
724.193	Hazardous Constituents
724.194	Concentration Limits
724.195	Point of Compliance
724.196	Compliance Period
724.197	General Groundwater Monitoring Requirements
724.198	Detection Monitoring Program
724.199	Compliance Monitoring Program
724.200	Corrective Action Program
724.201	Corrective Action for Solid Waste Management Units

#### SUBPART G: CLOSURE AND POST-CLOSURE

Section	
724.210	Applicability
724.211	Closure Performance Standard
724.212	Closure Plan; Amendment of Plan
724.213	Closure; Time Allowed For Closure
724.214	Disposal or Decontamination of Equipment, Structures and Soils
724.215	Certification of Closure
724.216	Survey Plat
724.217	Post-closure Care and Use of Property
724.218	Post-closure Plan; Amendment of Plan
724.219	Post-closure Notices
724.220	Certification of Completion of Post-closure Care

#### SUBPART H: FINANCIAL REQUIREMENTS

Section	
724.240	Applicability
724.241	Definitions of Terms As Used In This Subpart
724.242	Cost Estimate for Closure
724.243	Financial Assurance for Closure
724.244	Cost Estimate for Post-closure Care
724.245	Financial Assurance for Post-closure Care
724.246	Use of a Mechanism for Financial Assurance of Both Closure and Post-closure Care
724.247	Liability Requirements
724.248	Incapacity of Owners or Operators, Guarantors or Financial Institutions
724.251	Wording of the Instruments

## SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
724.270	Applicability
724.271	Condition of Containers
724.272	Compatibility of Waste With Container
724.273	Management of Containers
724.274	Inspections
724.275	Containment
724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure

## SUBPART J: TANK SYSTEMS

Section	
724.290	Applicability
724.291	Assessment of Existing Tank System's Integrity
724.292	Design and Installation of New Tank Systems or Components
724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or unfit-for-use Tank Systems
724.297	Closure and Post-Closure Care
724.298	Special Requirements for Ignitable or Reactive Waste
724.299	Special Requirements for Incompatible Wastes
724.300	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

## SUBPART K: SURFACE IMPOUNDMENTS

Section	
724.320	Applicability
724.321	Design and Operating Requirements
724.322	Double-lined Surface Impoundments: Exemption from Subpart F: Ground-water Protection Requirements (Repealed)
724.326	Monitoring and Inspection
724.327	Emergency Repairs; Contingency Plans
724.328	Closure and Post-closure Care
724.329	Special Requirements for Ignitable or Reactive Waste
724.330	Special Requirements for Incompatible Wastes
724.331	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026 and F027

## SUBPART L: WASTE PILES

Section	
724.350	Applicability
724.351	Design and Operating Requirements
724.352	Double-lined Piles: Exemption from Subpart F: Ground-water Protection Requirements (Repealed)
724.353	Inspection of Liners: Exemption from Subpart F: Ground-water Protection Requirements (Repealed)

724.354 Monitoring and Inspection  
 724.356 Special Requirements for Ignitable or Reactive Waste  
 724.357 Special Requirements for Incompatible Wastes  
 724.358 Closure and Post-closure Care  
 724.359 Special Requirements for Hazardous Wastes F020, F021,  
 F022, F023, F026 and F027

SUBPART M: LAND TREATMENT

Section  
 724.370 Applicability  
 724.371 Treatment Program  
 724.372 Treatment Demonstration  
 724.373 Design and Operating Requirements  
 724.376 Food-chain Crops  
 724.378 Unsaturated Zone Monitoring  
 724.379 Recordkeeping  
 724.380 Closure and Post-closure Care  
 724.381 Special Requirements for Ignitable or Reactive Waste  
 724.382 Special Requirements for Incompatible Wastes  
 724.383 Special Requirements for Hazardous Wastes F020, F021,  
 F022, F023, F026 and F027

SUBPART N: LANDFILLS

Section  
 724.400 Applicability  
 724.401 Design and Operating Requirements  
 724.402 Double-lined Landfills: Exemption from Subpart F:  
 Ground-water Protection Requirements (Repealed)  
 724.403 Monitoring and Inspection  
 724.409 Surveying and Recordkeeping  
 724.410 Closure and Post-closure Care  
 724.412 Special Requirements for Ignitable or Reactive Waste  
 724.413 Special Requirements for Incompatible Wastes  
 724.414 Special Requirements for Bulk and Containerized Liquids  
 724.415 Special Requirements for Containers  
 724.416 Disposal of Small Containers of Hazardous Waste in  
 Overpacked Drums (Lab Packs)  
 724.417 Special Requirements for Hazardous Wastes F020, F021,  
 F022, F023, F026 and F027

SUBPART O: INCINERATORS

Section  
 724.440 Applicability  
 724.441 Waste Analysis  
 724.442 Principal Organic Hazardous Constituents (POHCs)  
 724.443 Performance Standards  
 724.444 Hazardous Waste Incinerator Permits  
 724.445 Operating Requirements  
 724.447 Monitoring and Inspections  
 724.451 Closure

## SUBPART W: DRIP PADS

Section	
724.670	Applicability
724.671	Assessment of existing drip pad integrity
724.672	Design and installation of new drip pads
724.673	Design and operating requirements
724.674	Inspections
724.675	Closure

## SUBPART X: MISCELLANEOUS UNITS

Section	
724.701	Applicability
724.701	Environmental Performance Standards
724.702	Monitoring, Analysis, Inspection, Response, Reporting and Corrective Action
724.703	Post-closure Care

## SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
724.930	Applicability
724.931	Definitions
724.932	Standards: Process Vents
724.933	Standards: Closed-vent Systems and Control Devices
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Appendix E        Examples of Potentially Incompatible Waste  
Appendix I        Groundwater Monitoring List

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, pars. 1022.4 and 1027).

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg.        , effective        ; amended in R92-1 at 16 Ill. Reg.        , effective       

#### SUBPART H: FINANCIAL REQUIREMENTS

##### Section 724.247        Liability Requirements

- a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage or disposal facility, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsections (a)(1), ~~(a)(2)~~, ~~(a)(3)~~, ~~(a)(4)~~, ~~(a)(5)~~, or ~~(a)(6)~~:
  - 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this subsection.
    - 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 as specified in Section 724.251. The wording of the certificate of insurance must be as specified in Section 724.251. The owner or operator shall 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 shall provide a signed duplicate original of the insurance policy. An owner or operator of a new facility shall 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 which 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).
  - 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).
  - 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).
  - 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).
  - 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 operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not

consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.

- 7) An owner or operator shall notify the Agency within 30 days:
- A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or
  - B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.
- b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill, land treatment facility or disposal miscellaneous ~~disposal~~ unit which is used to manage hazardous waste, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate. This



liability coverage may be demonstrated as specified in subsections (b)(1), ~~(b)(2)~~, ~~(b)(3)~~, ~~(b)(4)~~, ~~(b)(5)~~ or ~~(b)(6)~~:

- 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.
  - 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 as specified in Section 724.251. The wording of the certificate of insurance must be as specified in Section 724.251. The owner or operator shall 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 shall provide a signed duplicate original of the insurance policy. An owner or operator of a new facility shall 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 which 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).
- 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).
- 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).
- 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).

- 3) 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 operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.
- 7) An owner or operator shall notify the Agency within 30 days:
  - A) Whenever a claim for bodily injury or property damage caused by the operator of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or
  - B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.
- c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted to the Agency as part of the application under 35 Ill. Adm. Code 703.182 for a facility that does not have a permit, or pursuant to the procedures for permit modification under 35 Ill. Adm. Code 705.128 for a facility that has a permit. If

granted, the modification will take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b). Any request for an adjusted level of required liability coverage for a permitted facility will be treated as a request for a permit modification under 35 Ill. Adm. Code 702.184(e)(3) and 705.128.

- d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Agency must adjust the level of financial responsibility required under subsection (a) or (b) as may be necessary to protect human health and the environment. This adjusted level shall be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b). An owner or operator shall furnish to the Agency, within a time specified by the Agency in the request, which must be not be less than 30 days, any information which the Agency requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under 35 Ill. Adm. Code 702.184(e)(3) and 705.128.
- e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency shall notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency

determines that closure has not been in accordance with the approved closure plan.

- f) Financial test for liability coverage.
- 1) An owner or operator may satisfy the requirements of this Section by demonstrating that it passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of subsection (f)(1)(A) or ~~(f)(1)(B)~~:
    - A) The owner or operator shall have:
      - i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and
      - ii) Tangible net worth of at least \$10 million; and
      - iii) Assets in the United States amounting to either: 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 shall have:
      - 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; and
      - ii) Tangible net worth of at least \$10 million; and
      - 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: 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) refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b).

- 3) To demonstrate that it meets this test, the owner or operator shall 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), 724.245(f), 725.243(e) and 725.245(e), and liability coverage, it shall submit the letter specified in Section 724.251 to cover both forms of financial responsibility; a separate letter as specified in Section 724.251 is not required.
  - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
  - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:
    - i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
    - ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
- 4) An owner or operator of a new facility shall submit the items specified in subsection (f)(3) to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal.
- 5) After the initial submission of items specified in subsection (f)(3), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal

year. This information must consist of all three items specified in subsection (f)(3).

- 6) If the owner or operator no longer meets the requirements of subsection (f)(1), the owner or operator shall obtain insurance for the entire amount of required liability coverage as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.
  - 7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency shall evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in this Section within 30 days after notification of disallowance.
- g) Guarantee for liability coverage.
- 1) Subject to subsection (g)(2), an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "guarantee." The guarantor shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor shall meet the requirements for owners and operators in subsections (f)(1) through (f)(6). The wording of the guarantee must be as specified in Section 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this

"substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

- A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.
  - B) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with Section 724.247 or 35 Ill. Adm. Code 725.247.
- 2) The guarantor shall execute the guarantee in Illinois. The guarantee shall be accompanied by a letter signed by the guarantor which states that:
- 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 shall have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 (Ill. Rev. Stat. ~~1987~~1991, ch. 32, par. 5.05) or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 (Ill. Rev. Stat. ~~1987~~1991, ch. 32, par. 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 which conforms to the requirements of this subsection, and submitting a

copy of the letter of credit to the Agency.

- 2) The financial institution issuing the letter of credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
  - 3) The wording of the letter of credit must be as specified in Section 724.251.
- i) Surety bond for liability coverage.
- 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this subsection and submitting a copy of the bond to the Agency.
  - 2) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance.
  - 3) The wording of the surety bond must be as specified in Section 724.251.
- j) Trust fund for liability coverage.
- 1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund which conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.
  - 2) The trustee shall be an entity which 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. (Ill. Rev. Stat. ~~1987~~1991, ch. 17, par. 1551-1 et seq.)
  - 3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, shall either add sufficient funds to the trust fund to cause its value to equal the full



amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage which is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

- 4) The wording of the trust fund must be as specified in Section 724.251.

(Source: Amended at 16 Ill. Reg. , effective  
)

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

PART 725  
 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS  
 WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

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725.Appendix A	Recordkeeping Instructions
725.Appendix B	EPA Report Form and Instructions (Repealed)
725.Appendix C	EPA Interim Primary Drinking Water Standards
725.Appendix D	Tests for Significance
725.Appendix E	Examples of Potentially Incompatible Waste

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111-1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB

831, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. , effective ; amended in R92-1 at 16 Ill. Reg. , effective

#### SUBPART F: GROUNDWATER MONITORING

##### Section 725.191 Groundwater Monitoring System

- a) A groundwater monitoring system must be capable of yielding groundwater samples for analysis and must consist of:
  - 1) Monitoring wells (at least one) installed hydraulically upgradient (i.e., in the direction of increasing static head) from the limit of the waste management area. Their number, locations and depths must be sufficient to yield groundwater samples that are:
    - A) Representative of background groundwater quality in the uppermost aquifer near the facility; and
    - B) Not affected by the facility; and
  - 2) Monitoring wells (at least three) installed hydraulically downgradient (i.e., in the direction of decreasing static head) at the limit of the waste management area. Their number, locations and depths must ensure that they immediately detect any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.
- b) Separate monitoring systems for each waste management

component of a facility are not required provided that provisions for sampling upgradient and downgradient water quality will detect any discharge from the waste management area.

- 1) In the case of a facility consisting of only one surface impoundment, landfill or land treatment area, the waste management area is described by the waste boundary (perimeter).
  - 2) In the case of a facility consisting of more than one surface impoundment, landfill or land treatment area the waste management area is described by the imaginary boundary line which circumscribes the several waste management components.
  - 3) The facility owner or operator may demonstrate that an alternate hydraulically downgradient monitoring well location will meet the criteria outlined below. The demonstration must be in writing and kept at the facility. The demonstration must be certified by a qualified groundwater scientist and establish that:
    - A) An existing physical obstacle prevents monitoring well installation at the hydraulically downgradient limit of the waste management area; and
    - B) The selected alternate downgradient location is as close to the limit of the waste management area as practical; and
    - C) The alternate location ensures detection as early as possible, of any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.
    - D) Lateral expansion, new, or replacement units are not eligible for an alternate downgradient location under this subsection.
- 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 packed with gravel or sand where necessary to enable sample collection at depths where appropriate aquifer flow zones exist. The annular space (i.e., the space between the bore hole and well casing) above the



sampling depth must be sealed with a suitable material (e.g., cement grout or bentonite slurry) to prevent contamination of samples and the groundwater.

(Source: Amended at 16 Ill. Reg. , effective )

#### SUBPART H: FINANCIAL REQUIREMENTS

##### Section 725.247 Liability Requirements

- a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment, storage or disposal facility, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in subsections (a)(1), ~~(a)(2)~~, ~~(a)(3)~~, ~~(a)(4)~~, ~~(a)(5)~~ and ~~(a)(6)~~:
  - 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.
    - 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 as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator shall 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 shall provide a signed duplicate original of the insurance policy.
    - B) Each insurance policy must be issued by an insurer which 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).

- 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).
  - 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).
  - 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).
  - 6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, letter of credit, surety bond and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.
  - 7) An owner or operator shall notify the Agency within 30 days:
    - A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator of an instrument providing financial assurance for liability coverage under this Section; or
    - B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.
- b) Coverage for nonsudden accidental occurrences. An owner or operator of a surface impoundment, landfill or

land treatment facility which is used to manage hazardous waste, or a group of such facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least \$3 million per occurrence with an annual aggregate of at least \$6 million, exclusive of legal defense costs. An owner or operator meeting the requirements of this Section may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate. This liability coverage may be demonstrated as specified in subsections (b)(1), ~~(b)(2)~~, ~~(b)(3)~~, ~~(b)(4)~~, ~~(b)(5)~~ and ~~(b)(6)~~:

- 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this paragraph.
  - A) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidence by a Certificate of Liability Insurance. The wording of the endorsement must be as specified in 35 Ill. Adm. Code 724.251. The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251. The owner or operator shall 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 shall provide a signed duplicate original of the insurance policy.
  - B) Each insurance policy must be issued by an insurer which 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).

- 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).
- 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).
- 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).
- 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 operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage must total at least the minimum amounts required by this Section. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under this subsection, the owner or operator shall specify at least one such assurance as "primary" coverage, and shall specify other such assurance as "excess" coverage.
- 7) An owner or operator shall notify the Agency within 30 days:
  - A) Whenever a claim for bodily injury or property damage caused by the operation of a hazardous waste treatment, storage or disposal facility is made against the owner or operator or an instrument providing financial assurance for liability coverage under this Section; or
  - B) Whenever the amount of financial assurance for liability coverage under this Section provided by a financial instrument authorized by subsections (a)(1) through (a)(6) is reduced.
- c) Request for adjusted level of required liability coverage. If an owner or operator demonstrates to the Agency that the levels of financial responsibility required by subsections (a) or (b) are not consistent

with the degree and duration of risk associated with treatment, storage or disposal at the facility or group or facilities, the owner or operator may obtain an adjusted level of required liability coverage from the Agency. The request for an adjusted level of required liability coverage must be submitted in writing to the Agency. If granted, the Agency's action shall take the form of an adjusted level of required liability coverage, such level to be based on the Agency assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The Agency may require an owner or operator who requests an adjusted level of required liability coverage to provide such technical and engineering information as is necessary to determine a level of financial responsibility other than that required by subsection (a) or (b). The Agency shall process any request for an adjusted level of required liability coverage as if it were a permit modification request under 35 Ill. Adm. Code 702.184(e)(3) and 705.128. Notwithstanding any other provision, the Agency shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

- d) Adjustments by the Agency. If the Agency determines that the levels of financial responsibility required by subsection (a) or (b) are not consistent with the degree and duration of risk associated with treatment, storage or disposal at the facility or group of facilities, the Agency shall adjust the level of financial responsibility required under subsection (a) or (b) as may be necessary to protect human health and the environment. This adjusted level must be based on the Agency's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Agency determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b). An owner or operator shall furnish to the Agency, within a time specified by the Agency in the request, which shall not be less than 30 days, any information which the Agency requests to determine

whether cause exists for such adjustments of level or type of coverage. The Agency shall process any request for an adjusted level of required liability coverage as if it were a permit modification request under 35 Ill. Adm. Code 702.184(e)(3) and 705.128. Notwithstanding any other provision, the Agency shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a tentative decision to grant an adjusted level of required liability insurance. The Agency may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the tentative decision.

- e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Agency shall notify the owner or operator in writing that the owner or operator is no longer required by this Section to maintain liability coverage for that facility, unless the Agency determines that closure has not been in accordance with the approved closure plan.
- f) Financial test for liability coverage.
  - 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of subsection (f)(1)(A) or ~~(f)(1)(B)~~:
    - A) The owner or operator shall have:
      - i) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and
      - ii) Tangible net worth of at least \$10 million; and
      - iii) Assets in the United States amounting to either: at least 90 percent of total assets; or at least six times the amount of liability coverage to be demonstrated by this test.
    - B) The owner or operator shall have:

- i) A current rating for the owner or operator's 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; and
  - ii) Tangible net worth of at least \$10 million; and
  - 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: at least 90 percent of 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) refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b).
  - 3) To demonstrate that the owner or operator meets this test, the owner or operator shall 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 35 Ill. Adm. Code 724.251. If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by 35 Ill. Adm. Code 724.243(f) and 724.245(f), or by Sections 725.243(e) and 725.245(e), and liability coverage, it shall submit the letter specified in 35 Ill. Adm. Code 724.251 to cover both forms of financial responsibility; a separate letter as specified in 35 Ill. Adm. Code 724.251 is not required.
    - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
    - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

- i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
  - ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
- 5) After the initial submission of items specified in subsection (f)(3), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3).
- 6) If the owner or operator no longer meets the requirements of subsection (f)(1), the owner or operator shall obtain insurance for the entire amount of required liability coverage as specified in this Section. Evidence of insurance must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.
- 7) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer of opinion is cause for disallowance. The Agency shall evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in this Section within 30 days after notification of disallowance.
- g) Guarantee for liability coverage.
  - 1) Subject to subsection (g)(2), an owner or operator may meet the requirements of this Section by obtaining a written guarantee, referred to as a "guarantee." The guarantor shall be the direct or



higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor shall meet the requirements for owners and operators in subsection (f)(1) through (f)(6). The wording of the guarantee must be as specified in 35 Ill. Adm. Code 724.251. A certified copy of the guarantee must accompany the items sent to the Agency as specified in subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

- A) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor will do so up to the limits of coverage.
  - B) The guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. The guarantee must not be terminated unless and until the Agency approves alternate liability coverage complying with Section 725.247 or 35 Ill. Adm. Code 724.247.
- 2) The guarantor shall execute the guarantee in Illinois. The guarantee shall be accompanied by a letter signed by the guarantor which states that:
- 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 shall have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 (Ill. Rev. Stat. ~~1987~~1991, ch. 32, par. 5.05) or Section 105.05 of the General Not-for-Profit Corporation Act of 1986 (Ill. Rev. Stat. ~~1987~~1991, ch. 32, par. 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 which conforms to the requirements of this subsection, and submitting a copy of the letter of credit to the Agency.
  - 2) The financial institution issuing the letter of credit shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies.
  - 3) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
- i) Surety bond for liability coverage.
- 1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond which conforms to the requirements of this subsection and submitting a copy of the bond to the Agency.
  - 2) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance.
  - 3) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
- j) Trust fund for liability coverage.
- 1) An owner or operator may satisfy the requirements of this Section by establishing a trust fund which conforms to the requirements of this subsection and submitting a signed, duplicate original of the trust agreement to the Agency.

- 2) The trustee shall be an entity which 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. (Ill. Rev. Stat. ~~1987~~1991, ch. 17, par. 1551-1 et seq.)
- 3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of liability coverage to be provided, the owner or operator, by the anniversary of the date of establishment of the fund, shall either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or obtain other financial assurance as specified in this Section to cover the difference. For purposes of this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden and nonsudden accidental occurrences required to be provided by the owner or operator by this Section, less the amount of financial assurance for liability coverage which is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.
- 4) The wording of the trust fund must be as specified in 35 Ill. Adm. Code 724.251.

(Source: Amended at 16 Ill. Reg. , effective  
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