

ILLINOIS POLLUTION CONTROL BOARD
September 17, 1992

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

Adopted Rules. Final Order.

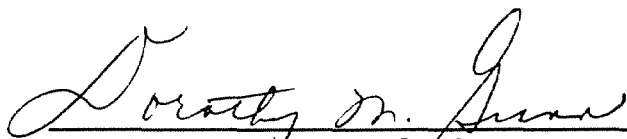
ORDER OF THE BOARD (by J. Anderson):

Pursuant to Section 7.2 and 22.4(a) of the Environmental Protection Act (Act), the Board is amending the RCRA hazardous waste regulations. The amendments involve 35 Ill. Adm. Code 720, 721, 722, 724 and 725. The Board will not file the adopted rules with the Administrative Code Division until after October 16, 1992, to allow time for post-adoption comments from the agencies involved in the authorization process.

The complete text of the rules is attached to this order. This order is supported by an 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 order was adopted on the 17th day of September, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

0136-0121

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

Section
 720.110 Definitions
 720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section
 720.120 Rulemaking
 720.121 Alternative Equivalent Testing Methods
 720.122 Waste Delisting
 720.130 Procedures for Solid Waste Determinations
 720.131 Solid Waste Determinations
 720.132 Boiler Determinations
 720.133 Procedures for Determinations
 720.140 Additional regulation of certain hazardous waste
 Recycling Activities on a case-by-case Basis
 720.141 Procedures for case-by-case regulation of hazardous
 waste Recycling Activities

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;

0136-0122

amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 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,

0136-0123

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 post-graduate 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.
"Professional certification" includes, but is not limited to, certification under the certified ground water professional program of the National Ground Water Association.

"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.

0136-0142

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:

0136-0143

"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. 9358, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. , effective

0136-0148

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.
- 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 55⁰ C (130⁰ 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).

BOARD NOTE: The corrosivity characteristic determination currently does not apply to non-liquid wastes, as discussed by USEPA at 45 Fed. Reg. 33109, May 19, 1980 and at 55 Fed. Reg. 22549, June 1, 1990.

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
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

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. 9833, effective June 9, 1992; 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) above.

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

Section 722.156 Annual Reports

0136-0151

- 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
 724.700 ~~701~~700 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
 724.934 Test methods and procedures
 724.935 Recordkeeping requirements
 724.936 Reporting Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section
 724.950 Applicability
 724.951 Definitions
 724.952 Standards: Pumps in Light Liquid Service
 724.953 Standards: Compressors
 724.954 Standards: Pressure Relief Devices in Gas/Vapor
 Service
 724.955 Standards: Sampling Connecting Systems
 724.956 Standards: Open-ended Valves or Lines
 724.957 Standards: Valves in Gas/Vapor or Light Liquid Service
 724.958 Standards: Pumps, Valves, Pressure Relief Devices and
 Other Connectors
 724.959 Standards: Delay of Repair
 724.960 Standards: Closed-vent Systems and Control Devices
 724.961 Alternative Percentage Standard for Valves
 724.962 Skip Period Alternative for Valves
 724.963 Test Methods and Procedures
 724.964 Recordkeeping Requirements
 724.965 Reporting Requirements

Appendix A Recordkeeping Instructions
 Appendix B EPA Report Form and Instructions (Repealed)
 Appendix D Cochran's Approximation to the Behrens-Fisher
 Student's T-Test

0136-0157

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. 111 $\frac{1}{2}$, 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. 9833, effective June 9, 1992; 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)~~ below:
- 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

0136-0158

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) below.
 - 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) below.
 - 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) below.
 - 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) below.
 - 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) above 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)~~ below:

- 1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this ~~paragraph~~ 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) below.
- 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) below.
- 4) An owner or operator may meet the requirements of this Section by obtaining a surety bond for

0136-0161

liability coverage as specified in subsection (i) below.

- 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)~~ below.
- 3 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) above 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) above 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) above. 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)~~ 703.271(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) above 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) above 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) above. 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)~~ 703.271(e)(3) and 705.128.
- e) Period of coverage. Within 60 days after receiving

0136-0163

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)~~ below:
- 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

0136-0164

amount of liability coverage to be demonstrated by this test.

- 2) The phrase "amount of liability coverage" as used in subsection (f)(1) above refers to the annual ~~aggregate amounts for which coverage is required~~ under subsections (a) and (b) above.
- 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) ~~and~~ 724.245(f) ~~and~~ 35 Ill. Adm. Code 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

0136-0165

submit the items specified in subsection (f)(3) above 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) above, 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) above.~~
- 6) If the owner or operator no longer meets the requirements of subsection (f)(1) above, 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) above). 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) below, 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) above. 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) above. 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

0136-0167

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

SUBPART A: GENERAL PROVISIONS

Section
725.101 Purpose, Scope and Applicability
725.104 Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

Section
725.110 Applicability
725.111 USEPA Identification Number
725.112 Required Notices
725.113 General Waste Analysis
725.114 Security
725.115 General Inspection Requirements
725.116 Personnel Training
725.117 General Requirements for Ignitable, Reactive or
Incompatible Wastes
725.118 Location Standards

SUBPART C: PREPAREDNESS AND PREVENTION

Section
725.130 Applicability
725.131 Maintenance and Operation of Facility
725.132 Required Equipment
725.133 Testing and Maintenance of Equipment
725.134 Access to Communications or Alarm System
725.135 Required Aisle Space
725.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section
725.150 Applicability
725.151 Purpose and Implementation of Contingency Plan
725.152 Content of Contingency Plan
725.153 Copies of Contingency Plan
725.154 Amendment of Contingency Plan
725.155 Emergency Coordinator
725.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section
725.170 Applicability
725.171 Use of Manifest System
725.172 Manifest Discrepancies

725.173 Operating Record
 725.174 Availability, Retention and Disposition of Records
 725.175 Annual Report
 725.176 Unmanifested Waste Report
 725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

Section
 725.190 Applicability
 725.191 Groundwater Monitoring System
 725.192 Sampling and Analysis
 725.193 Preparation, Evaluation and Response
 725.194 Recordkeeping and Reporting

SUBPART G: CLOSURE AND POST-CLOSURE

Section
 725.210 Applicability
 725.211 Closure Performance Standard
 725.212 Closure Plan; Amendment of Plan
 725.213 Closure; Time Allowed for Closure
 725.214 Disposal or Decontamination of Equipment, Structures
 and Soils
 725.215 Certification of Closure
 725.216 Survey Plat
 725.217 Post-closure Care and Use of Property
 725.218 Post-closure Plan; Amendment of Plan
 725.219 Post-Closure Notices
 725.220 Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section
 725.240 Applicability
 725.241 Definitions of Terms as Used in this Subpart
 725.242 Cost Estimate for Closure
 725.243 Financial Assurance for Closure
 725.244 Cost Estimate for Post-closure Care
 725.245 Financial Assurance for Post-closure Monitoring and
 Maintenance
 725.246 Use of a Mechanism for Financial Assurance of Both
 Closure and Post-closure Care
 725.247 Liability Requirements
 725.248 Incapacity of Owners or Operators, Guarantors or
 Financial Institutions
 725.251 Promulgation of Forms (Repealed)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section
 725.270 Applicability
 725.271 Condition of Containers
 725.272 Compatibility of Waste with Container
 725.273 Management of Containers
 725.274 Inspections

- 725.276 Special Requirements for Ignitable or Reactive Waste
 725.277 Special Requirements for Incompatible Wastes

SUBPART J: TANK SYSTEMS

- Section
 725.290 Applicability
 725.291 Assessment of Existing Tank System's Integrity
 725.292 Design and Installation of New Tank Systems or
 Components
 725.293 Containment and Detection of Releases
 725.294 General Operating Requirements
 725.295 Inspections
 725.296 Response to leaks or spills and disposition of Tank
 Systems
 725.297 Closure and Post-Closure Care
 725.298 Special Requirements for Ignitable or Reactive Waste
 725.299 Special Requirements for Incompatible Wastes
 725.300 Waste Analysis and Trial Tests
 725.301 Generators of 100 to 1000 kg/mo.

SUBPART K: SURFACE IMPOUNDMENTS

- Section
 725.320 Applicability
 725.321 Design Requirements
 725.322 General Operating Requirements
 725.323 Containment System
 725.325 Waste Analysis and Trial Tests
 725.326 Inspections
 725.328 Closure and Post-Closure Care
 725.329 Special Requirements for Ignitable or Reactive Waste
 725.330 Special Requirements for Incompatible Wastes

SUBPART L: WASTE PILES

- Section
 725.350 Applicability
 725.351 Protection from Wind
 725.352 Waste Analysis
 725.353 Containment
 725.354 Design Requirements
 725.356 Special Requirements for Ignitable or Reactive Waste
 725.357 Special Requirements for Incompatible Wastes
 725.358 Closure and Post-Closure Care

SUBPART M: LAND TREATMENT

- Section
 725.370 Applicability
 725.372 General Operating Requirements
 725.373 Waste Analysis
 725.376 Food Chain Crops
 725.378 Unsaturated Zone (Zone of Aeration) Monitoring
 725.379 Recordkeeping
 725.380 Closure and Post-closure

- 725.381 Special Requirements for Ignitable or Reactive Waste
 725.382 Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

- Section
 725.400 Applicability
 725.401 Design Requirements
 725.402 General Operating Requirements
 725.409 Surveying and Recordkeeping
 725.410 Closure and Post-Closure
 725.412 Special Requirements for Ignitable or Reactive Waste
 725.413 Special Requirements for Incompatible Wastes
 725.414 Special Requirements for Liquid Wastes
 725.415 Special Requirements for Containers
 725.416 Disposal of Small Containers of Hazardous Waste in
 Overpacked Drums (Lab Packs)

SUBPART O: INCINERATORS

- Section
 725.440 Applicability
 725.441 Waste Analysis
 725.445 General Operating Requirements
 725.447 Monitoring and Inspection
 725.451 Closure
 725.452 Interim Status Incinerators Burning Particular
 Hazardous Wastes

SUBPART P: THERMAL TREATMENT

- Section
 725.470 Other Thermal Treatment
 725.473 General Operating Requirements
 725.475 Waste Analysis
 725.477 Monitoring and Inspections
 725.481 Closure
 725.482 Open Burning; Waste Explosives
 725.483 Interim Status Thermal Treatment Devices Burning
 Particular Hazardous Waste

SUBPART Q: CHEMICAL, PHYSICAL AND BIOLOGICAL TREATMENT

- Section
 725.500 Applicability
 725.501 General Operating Requirements
 725.502 Waste Analysis and Trial Tests
 725.503 Inspections
 725.504 Closure
 725.505 Special Requirements for Ignitable or Reactive Waste
 725.506 Special Requirements for Incompatible Wastes

SUBPART R: UNDERGROUND INJECTION

- Section
 725.530 Applicability

SUBPART W: DRIP PADS

Section	
725.540	Applicability
725.541	Assessment of existing drip pad integrity
725.542	Design and installation of new drip pads
725.543	Design and operating requirements
725.544	Inspections
725.545	Closure

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
725.930	Applicability
725.931	Definitions
725.932	Standards: Process Vents
725.933	Standards: Closed-vent Systems and Control Devices
725.934	Test methods and procedures
725.935	Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
725.950	Applicability
725.951	Definitions
725.952	Standards: Pumps in Light Liquid Service
725.953	Standards: Compressors
725.954	Standards: Pressure Relief Devices in Gas/Vapor Service
725.955	Standards: Sampling Connecting Systems
725.956	Standards: Open-ended Valves or Lines
725.957	Standards: Valves in Gas/Vapor or Light Liquid Service
725.958	Standards: Pumps, Valves, Pressure Relief Devices, Flanges and Other Connectors
725.959	Standards: Delay of Repair
725.960	Standards: Closed-vent Systems and Control Devices
725.961	Percent Leakage Alternative for Valves
725.962	Skip Period Alternative for Valves
725.963	Test Methods and Procedures
725.964	Recordkeeping Requirements

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

0136-0174

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. 9578, effective June 9, 1992; 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

0136-0175

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)~~ below:

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) below.

- 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) below.
- 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) below.
- 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) below.
- 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) above is reduced.

0136-0178

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)~~ below:

- 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

0136-0179

the guarantee for liability coverage as specified in subsections (f) and (g) below.

- 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) below.
- 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) below.
- 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) below.
- 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) above 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) above 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 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) above. 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)~~ 703.271(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) above 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) above 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

0136-0181

impoundment, landfill or land treatment facility, the Agency may require that an owner or operator of the facility comply with subsection (b) above. 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)~~ 703.271(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)~~ below:
 - 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) above refers to the annual aggregate amounts for which coverage is required under subsections (a) and (b) above.
- 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) above, 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) above.
- 6) If the owner or operator no longer meets the requirements of subsection (f)(1) above, 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) above). 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) below, 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) above. 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) above. 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 ~~occurences~~ 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.

0136-0185

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.

0136-0186

- 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
)