

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 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. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000;

amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART B: GENERAL FACILITY STANDARDS

##### Section 725.111 USEPA Identification Number

Every facility owner or operator must apply to USEPA Region 5 for a USEPA identification number ~~in accordance with the USEPA notification procedures~~ using USEPA Form 8700-12. The facility owner or operator must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA.

~~BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification. The federal instructions require that an owner or operator file notice for an Illinois facility with the Agency, Bureau of Land (telephone: 217-782-6762).~~

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 725.112 Required Notices

###### a) Receipt from a foreign source.

1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Agency and USEPA Region 5 in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 must provide a copy of the ~~tracking~~ movement document bearing all required signatures to the ~~notifier~~ foreign exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance, ~~Enforcement-Planning, Targeting and Data~~ Assurance Division ~~(2222A)~~ (2254A), Environmental Protection Agency, ~~401 M St., SW,~~ 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to the competent authorities of all other countries concerned ~~countries~~ within three working days ~~of~~ ~~after~~ receipt of the shipment. The original of the signed ~~tracking~~ movement document must be maintained at the facility for at least three years. In addition, ~~such~~ ~~the~~ owner or operator must send a certificate of recovery to the foreign exporter, to the competent authority of the country of export, to USEPA's Office of Enforcement and Compliance Assurance at the above address by mail, by e-mail without a digital signature followed by mail, or by fax followed by mail. The owner or operator must complete this sending of a certificate of recovery as soon as possible, but no later than 30

days after the completion of recovery, and no later than one calendar year following the receipt of the hazardous waste.

b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this Part and 35 Ill. Adm. Code 702 and 703 (also see 35 Ill. Adm. Code 703.155).

BOARD NOTE: An owner's or operator's failure to notify the new owner or operator of the requirements of this Part in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.115 General Inspection Requirements

a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing - or which may lead to - the conditions listed below. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

- 1) Release of hazardous waste constituents to the environment, or
- 2) A threat to human health.

b) Written schedule.

1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

2) The owner or operator must keep this schedule at the facility.

3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, ~~except for the owner or operator of a Performance Track member facility, which must inspect at least once each month after approval by the Agency, as described in subsection (b)(5) of this Section.~~ At a minimum, the inspection schedule must include the items and frequencies called for in Sections 725.274, 725.293, 725.295, 725.326, 725.360, 725.378, 725.404, 725.447, 725.477, 725.503, 725.933, 725.952, 725.953, 725.958, and 725.984 through 725.990, where applicable.

5) ~~The owner or operator of a Performance Track member facility that chooses to reduce its inspection frequency must fulfill the following requirements:~~ This subsection (b)(5) corresponds with 40 CFR 265.15(b)(5), which became



obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, ~~92,12992~~, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

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

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

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

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

##### Section 725.152 Content of Contingency Plan

a) The contingency plan must describe the actions facility personnel must take to comply with Sections 725.151 and 725.156 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

b) If the owner or operator has already prepared a federal Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with 40 CFR ~~Part 112 or 300, 112~~, or some other emergency or contingency plan, it needs only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Part. The owner or operator may develop one contingency plan that meets all regulatory requirements. USEPA has recommended that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (One Plan). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

BOARD NOTE: The federal One Plan guidance appeared in the Federal Register at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103 (June 19, 1996). USEPA, Office of Resource Conservation and Recovery, Chemical Emergency Preparedness and Prevention Office, has made these documents available on-line for examination and download at [yosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm](http://yosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm).

c) The plan must describe arrangements agreed to by local police department, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to Section 725.137.

d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see Section 725.155), and this list must be kept up to date. Where more than one person is listed one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment) where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.156 Emergency Procedures

a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately do the following:

1) He or she must activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

2) He or she must notify appropriate State or local agencies with designated response roles if their help is needed.

b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent

of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water runoffs from water or chemical agents used to control fire and heat-induced explosions).

d) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health or the environment outside the facility, he or she must report his findings as follows:

1) If his assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and

2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area ~~(in the applicable regional contingency plan under federal 40 CFR 300)~~, or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following:

A) The name and telephone number of reporter;

B) The name and address of facility;

C) The time and type of incident (e.g., release, fire, etc.);

D) The name and quantity of materials involved, to the extent known;

E) The extent of injuries, if any; and

F) The possible hazards to human health or the environment outside the facility.

e) During an emergency the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

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

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

BOARD NOTE: Unless the owner or operator can demonstrate in accordance with 35 Ill. Adm. Code 721.103(d) or (e) that the recovered material is not a

hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 725.

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

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

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

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

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

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

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

4) The name and quantity of materials involved;

5) The extent of injuries, if any;

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

##### Section 725.170 Applicability

The regulations in this Subpart E apply to owners and operators of both on-site and off-site facilities, except as Section 725.101 provides otherwise. Sections 725.171, 725.172, and 725.176 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor do they apply to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 35 Ill. Adm. Code 726.303(a).

~~BOARD NOTE: This Section corresponds with 40 CFR 265.70(a) (2005), effective September 5, 2006. The Board omitted 40 CFR 265.70(b), as added at 70 Fed. Reg. 10776 (March 4, 2005), since that provision only stated the September 5, 2006 effective date for the newer manifest requirements.~~

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

##### Section 725.171 Use of Manifest System

a) Receipt of manifested hazardous waste.

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

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

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

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

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

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

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

3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, ~~OFA/OECA~~ (2254A), U.S. Environmental Protection Agency, ~~Ariel Rios Building~~, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

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

1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

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

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

4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

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

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

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

d) Within three working days of the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of ~~the~~ a facility must provide a copy of the ~~tracking~~ movement document bearing all required signatures to the ~~notifier~~ exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance, ~~Enforcement Planning, Targeting and Data~~ Assurance Division ~~(2222A)~~ (2254A), Environmental Protection Agency, ~~401 M St., SW,~~ 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other countries concerned ~~countries~~. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.172 Manifest Discrepancies

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

1) Significant differences (as defined by subsection (b) of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).

b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as

waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d) Rejection of hazardous waste.

1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f) of this Section.

e) Except as provided in subsection (e)(7) of this Section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (e)(1) through (e)(6) of this Section:

1) ~~Write~~—The facility owner or operator must write the generator's USEPA identification number in Item 1 of the new manifest. ~~Write~~—The facility owner or operator must write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then the facility owner or operator must write the generator's site address in the designated space in Item 5.

2) ~~Write~~—The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) ~~Write~~—The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) ~~Sign~~—The facility owner or operator must sign the Generator's/Offerrer's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e) (1) through (e) (6) of this Section.

f) Except as provided in subsection (f) (7) of this Section, for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest in accordance with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections (f) (1) through (f) (6) and (f) (8) of this Section:

1) ~~Write~~—The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest.—~~Write~~ The facility owner or operator must write the ~~generator's~~ facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the ~~generator's~~ facility's site address, then the facility owner or operator must write the ~~generator's~~ facility's site address in the designated space for Item 5 of the new manifest.

2) ~~Write~~—The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) ~~Copy~~—The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) ~~Write~~—The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) ~~Sign~~—The facility owner or operator must sign the Generator's/Offerrer's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.



7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8) of this Section.

8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in Section 722.142(a).

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART H: FINANCIAL REQUIREMENTS

##### Section 725.241 Definitions of Terms as Used in this Subpart H

a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 725.212.

b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b), and (c).

c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b), and (c).

d) "Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.

f) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

"Assets" mean all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" mean cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles, such as goodwill and rights to patents or royalties.

g) In the liability insurance requirements the terms "bodily injury" and "property damage" have the meanings given below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: This term is used in the definition of "pollution incident."

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Nonsudden accidental occurrence" means an occurrence that takes place over time and involves continuous or repeated exposure.

"Pollutants" means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: This definition is used in the definition of "pollution incident."

"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in "environmental damage." The entirety of any such emission, discharge, release, or escape must be deemed to be one "pollution incident." "Waste" includes materials to be recycled, reconditioned, or reclaimed. The term "pollution incident" includes an "occurrence."

BOARD NOTE: This definition is used in the definition of "property damage."

"Property damage" means as follows:

Either of the following:

Physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a "pollution incident."

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

"Sudden accidental occurrence" means an occurrence that is not continuous or repeated in nature.

h) "Substantial business relationship" means ~~that one business entity has an ownership interest in another.~~ the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. "Applicable state law," as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Derived from 40 CFR 265.141(h) (2010) and the discussion at 53 Fed. Reg. 33938, ~~41-4333941-33943~~ (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). Any Agency

determination that a substantial business relationship exists is subject to Board review pursuant to ~~section~~Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.242 Cost Estimate for Closure

a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.

1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and

2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.

3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes, or non-hazardous wastes if ~~applicable under~~ permitted by the Agency pursuant to Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.

4) The owner or operator must not incorporate a zero cost for hazardous waste, or non-hazardous waste if ~~applicable under~~ permitted by the Agency pursuant to Section 725.213(d), that may have economic value.

b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with Section 725.243. For an owner or operator using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Agency, as specified in Section 725.243(e)(5). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross National Product (Deflator), as published by the U.S. Department of Commerce in its Survey of Current Business, as specified in subsections (b)(1) and (b)(2) of this Section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account ~~Tables~~Table, published by U.S. Department of Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address:  
www.bea.gov/national/nipaweb/?TableView.asp??SelectedTable=13?&FirstYear=2002?&LastYear=2004?&Freq=Qtr.

c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan that increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised no later than 30 days after the Agency has approved the request to modify the closure plan if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (b) of this Section.

d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest closure cost estimate prepared in accordance with subsections (a) and (c) of this Section, and, when this estimate has been adjusted in accordance with subsection (b) of this Section, the latest adjusted closure cost estimate.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 725.243 Financial Assurance for Closure

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

a) Closure trust fund.

1) An owner or operator may satisfy the requirements of this Section by establishing a closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.

2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251, and the trust agreement must be accompanied by a formal certification of acknowledgment, as specified in 35 Ill. Adm. Code 724.251. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

3) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning May 19, 1981, or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

A) The first payment must be made before May 19, 1981, except as provided in subsection (a)(5) of this Section. The first payment must be at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section, divided by the number of years in the pay-in period.

B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

Next payment =  
Where:

CE = the current closure cost estimate ~~CV~~ estimateCV = the current value of the trust fund ~~fundY~~ fundY = the number of years remaining in the pay-in period

4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3) of this Section.

5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) of this Section.

6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.

7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.

8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.

9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.

10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund,

it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (h) of this Section, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator a detailed written statement of reasons.

11) The Agency must agree to termination of the trust when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

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

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.

3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a) of this Section, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and

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

i) Payments into the trust fund, as specified in subsection (a);

ii) Updating of Schedule A of the trust agreement (see 35 Ill. Adm. Code 724.251(a)) to show current closure cost estimates;

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

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

4) The bond must guarantee that the owner or operator will:

A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;

B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the Board or a court of competent jurisdiction; or

C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.

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

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance, as specified in this Section.

c) Closure letter of credit.

1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.

2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.

3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust



fund must meet the requirements of the trust fund specified in subsection (a) of this Section, except as follows:

A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and

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

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

ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current closure cost estimates;

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

iv) Notices of nonpayment as required by the trust agreement.

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

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

6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.

7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Agency.

8) Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Agency may draw on the letter of credit.

9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the

Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.

10) The Agency must return the letter of credit to the issuing institution for termination when one of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

d) Closure insurance.

1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.

3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.

5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (h) of this Section, that the owner or operator is no longer required to maintain financial assurance for final closure of the particular facility. If the Agency does not instruct the insurer to make such reimbursements, the

Agency must provide the owner or operator with a detailed written statement of reasons.

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

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

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:

A) The Agency deems the facility abandoned;

B) Interim status is terminated or revoked;

C) Closure is ordered by the Board or a court of competent jurisdiction;

D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or

E) The premium due is paid.

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

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

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

e) Financial test and corporate guarantee for closure.

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

A) The owner or operator must have all of the following:

i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

B) The owner or operator must have all of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least \$10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

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

3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;

B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

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

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

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

4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.

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

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

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

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

9) The owner or operator is no longer required to submit the items specified in subsection (e)(3) of this Section when either of the following occurs:

A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or

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

10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (e)(1) through (e)(8) of this Section, and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in 35 Ill. Adm. Code 724.251. The corporate guarantee must accompany the items sent to the Agency as specified in subsection (e)(3) of this Section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide the following:

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

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

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

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

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

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

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART I: USE AND MANAGEMENT OF CONTAINERS

##### Section 725.274 Inspections

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART J: TANK SYSTEMS

Section 725.295 Inspections

a) The owner or operator must inspect the following, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.

b) Except as noted under subsection (c) of this Section, the owner or operator must inspect the following at least once each operating day:

1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.).

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

c) The owner or operator of a tank system that either uses leak detection equipment to alert facility personnel to leaks or implements established workplace practices to ensure leaks are promptly identified must inspect at least weekly those areas described in subsections (b)(1) through (b)(3) of this Section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

d) ~~The owner or operator of a Performance Track member facility may inspect on a less frequent basis, after approval by the Agency, but it must inspect at least once each month. To apply for a less than weekly inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5).~~ This subsection (d) corresponds with 40 CFR 265.195(d), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, [92,12992](#), note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

e) Ancillary equipment that is not provided with secondary containment, as described in Section 725.293(f)(1) through (f)(4), must be inspected at least once each operating day.

f) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and



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

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

a) The requirements of this Section apply to small quantity generators that generate more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and that do not accumulate over 6,000 kg on-site at any time.

b) A generator of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:

1) Treatment or storage of hazardous waste in tanks must comply with Section 725.117(b);

2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;

3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and

4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

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

c) Except as noted in subsection (d) of this Section, a generator of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect the following, where present:

1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

- 2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;
- 3) The level of waste in the tank at least once each operating day to ensure compliance with subsection (b)(3) of this Section;
- 4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and
- 5) The construction materials of and the area immediately surrounding discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

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

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

~~e) The owner or operator of a Performance Track member facility may inspect on a less frequent basis after approval by the Agency, but it must inspect at least once each month. To apply for a less than weekly inspection frequency, the owner or operator of the Performance Track member facility must follow the procedures described in Section 725.115(b)(5).~~ This subsection (e) corresponds with 40 CFR 265.201(e), which became obsolete when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized that program-related rules are no longer effective at 75 Fed. Reg. 12989, [92-12992](#), note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.

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

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

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

1) Ignitable or reactive waste must not be placed in a tank unless one of the following conditions are fulfilled:

A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the following is true of the waste:

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

ii) Section 725.117(b) is complied with;

B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

C) The tank is used solely for emergencies.

2) The owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of "Flammable and Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

~~f~~h) A generator of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:

1) Incompatible wastes or incompatible wastes and materials (see appendix V of 40 CFR 265 (Examples of Potentially Incompatible Waste), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples) must not be placed in the same tank unless Section 725.117(b) is complied with.

2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material unless Section 725.117(b) is complied with.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART N: LANDFILLS

#### Section 725.414 Special Requirements for Liquid Wastes

a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

b) Containers holding free liquids must not be placed in a landfill unless one of the following conditions is fulfilled:

1) One of the following occurs with regard to all free-standing liquid:

A) It has been removed by decanting or other methods;

B) It has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

C) It has been otherwise eliminated;

2) The container is very small, such as an ampule;

3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

4) The container is a lab pack, as defined in Section 724.416, and is disposed of in accordance with Section 724.416.

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

d) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations.

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

1) Nonbiodegradable sorbents are the following:

A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon, etc.); or

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

C) Mixtures of these nonbiodegradable materials.

2) Tests for nonbiodegradable sorbents.

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

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

C) The sorbent material is determined to be non-biodegradable under OECD Guideline for Testing of Chemicals, Method 301B (CO2 Evolution (Modified Sturm Test)), incorporated by reference in 35 Ill. Adm. Code 720.111(a).

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill if the following requirements are met:

- a) Hazardous waste must be packaged in non-leaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers must be tightly and securely sealed. The inside containers must be of the size and type specified in the USDOT hazardous materials regulations (49 CFR 173 (Shippers - General Requirements for Shipments and Packages), 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations specify a particular inside container for the waste.
- b) The inside containers must be overpacked in an open head USDOT-specification metal shipping container (49 CFR 178 (Specifications for Packagings) and 179 (Specifications for Tank Cars), of no more than 416 liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with 35 Ill. Adm. Code 725.414(~~f~~) ~~725.414~~(e) to completely sorb all of the liquid contents of the inside containers. The metal outer container must be full after packing with inside containers and sorbent material.
- c) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with Section 725.117(b).
- d) Incompatible wastes, as defined in 35 Ill. Adm. Code 720.110, must not be placed in the same outside container.
- e) Reactive waste, other than cyanide- or sulfide-bearing waste, as defined in 35 Ill. Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to packaging in accordance with subsections (a) through (d) of this Section. Cyanide- or sulfide-bearing reactive waste may be packaged in accordance with subsections (a) through (d) of this Section without first being treated or rendered non-reactive.
- f) Such disposal is in compliance with the requirements of 35 Ill. Adm. Code 728. Persons that incinerate lab packs according to the requirements of 35 Ill. Adm. Code 728.142(c)(1) may use fiber drums in place of metal outer containers. Such fiber drums must meet the USDOT specifications in 49 CFR 173.12 (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and be overpacked according to subsection (b) of this Section.
- g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid wastes or wastes containing free liquids allowed under this Section is restricted to labwaste and non-periodic waste, as those terms are defined in that Part.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART DD: CONTAINMENT BUILDINGS

Section 725.1101 Design and Operating Standards

a) All containment buildings must comply with the following design and operating standards:

1) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (e.g. precipitation, wind, run on) and to assure containment of managed wastes;

2) The floor and containment walls of the unit, including the secondary containment system if required under subsection (b) of this Section, must be designed and constructed of materials of sufficient strength and thickness to support themselves, the waste contents, and any personnel and heavy equipment that operate within the unit, and to prevent failure due to pressure gradients, settlement, compression, or uplift, physical contact with the hazardous wastes to which they are exposed; climatic conditions; and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls. The unit must be designed so that it has sufficient structural strength to prevent collapse or other failure. All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes. The containment building must meet the structural integrity requirements established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM). If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet these criteria:

A) They provide an effective barrier against fugitive dust emissions under subsection (c)(1)(D) of this Section; and

B) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings;

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

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

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

1) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (e.g., a geomembrane covered by a concrete wear surface).

2) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building:

A) The primary barrier must be sloped to drain liquids to the associated collection system; and

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

3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.

A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:

i) It is constructed with a bottom slope of 1 percent or more; and

ii) It is constructed of a granular drainage material with a hydraulic conductivity of  $1 \times 10^{-2}$  cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10^{-5}$  m<sup>2</sup>/sec or more.

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

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

4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the owner or operator must do each of the following:

A) Provide written notice to USEPA of their request by November 16, 1992. This notification must describe the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;

B) Respond to any comments from USEPA on these plans within 30 days; and

C) Fulfill the terms of the revised plans, if such plans are approved by USEPA.

c) Owners or operators of all containment buildings must do each of the following:

1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum do each of the following:

A) It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;

B) It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;

C) It must take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and

D) It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit;

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

2) It must obtain and keep on-site a certification by a qualified Professional Engineer that the containment building design meets the requirements of subsections (a) through (c) of this Section;

3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly, in accordance with the following procedures:

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

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

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



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

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

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

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

4) It must inspect and record in the facility's operating record at least once every seven days, ~~except for the owner or operator of a Performance Track member facility, which must inspect the record at least once each month after approval of the Agency,~~ data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. ~~To apply for a reduced inspection frequency, the owner or operator of a Performance Track member facility must follow the procedures described in Section 725.115(b)(5).~~

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

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

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

3) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

| ILLINOIS REGISTER

| POLLUTION CONTROL BOARD

| NOTICE OF PROPOSED AMENDMENTS

Document comparison done by DeltaView on Friday, June 17, 2011 2:56:54 PM

Input:	
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Deletions	112
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	132

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

2) Code Citation: 35 Ill. Adm. Code 725

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JUN 28 2011

STATE OF ILLINOIS  
Pollution Control Board

<u>Sections Numbers:</u>	<u>Proposed Action:</u>
725.111	Amend
725.112	Amend
725.115	Amend
725.152	Amend
725.156	Amend
725.170	Amend
725.171	Amend
725.172	Amend
725.241	Amend
725.242	Amend
725.243	Amend
725.274	Amend
725.295	Amend
725.301	Amend
725.414	Amend
725.416	Amend
725.1101	Amend

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

5) A complete description of the subjects and issues involved: The amendments to Part 725 are a single segment of the docket R11-2/R11-16 rulemaking that also affects 35 Ill. Adm. Code 702, 720, 721, 722, 723, 724, 726, and 728, each of which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R11-2/R11-16 rulemaking in this *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of June 2, 2011, proposing amendments in docket R11-2/R11-16, which opinion and order is available from the address below.

Specifically, the amendments to Part 725 implement segments of the January 8, 2010 federal amendments to the hazardous waste import and export requirements and the federal technical corrections and clarifications of March 18, 2010. The amendments

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

include a number of non-substantive corrections and clarifications added by the Board. Among the corrections is the removal of obsolete provisions relating to the former federal Performance Track Program and corrections to make the Illinois definition of "substantial business relationship" the same as the corresponding federal definition.

Tables appear in the Board's opinion and order of June 2, 2011 in docket R11-2/R11-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the June 2, 2011 opinion and order in docket R11-2/R11-16.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No. The incorporations by reference for the purposes of all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, and 739 appear in 35 Ill. Adm. Code 720.111. Amendments to 35 Ill. Adm. Code 720.111 may affect documents incorporated by reference for the purposes of this Part 725.
- 11) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, place and manner in which interested persons may comment on this proposed

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R11-2/R11-16 and be addressed to:

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

Please direct inquiries to the following person and reference docket R11-2/R11-16:

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

Phone: 312-814-6924  
E-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us)

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial regulatory flexibility analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste.
  - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
  - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory agenda on which this rulemaking was summarized: July 2010 and December 2010

The full text of the Proposed Amendments begins on the next page:

EXEMPT

JCAR350725-1109648r01

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JUN 28 2011

STATE OF ILLINOIS  
Pollution Control Board

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

5  
6 PART 725  
7 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS  
8 WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

9  
10 SUBPART A: GENERAL PROVISIONS

11  
12 Section  
13 725.101 Purpose, Scope, and Applicability  
14 725.102 Electronic Reporting  
15 725.104 Imminent Hazard Action

16  
17 SUBPART B: GENERAL FACILITY STANDARDS

18  
19 Section  
20 725.110 Applicability  
21 725.111 USEPA Identification Number  
22 725.112 Required Notices  
23 725.113 General Waste Analysis  
24 725.114 Security  
25 725.115 General Inspection Requirements  
26 725.116 Personnel Training  
27 725.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes  
28 725.118 Location Standards  
29 725.119 Construction Quality Assurance Program

30  
31 SUBPART C: PREPAREDNESS AND PREVENTION

32  
33 Section  
34 725.130 Applicability  
35 725.131 Maintenance and Operation of Facility  
36 725.132 Required Equipment  
37 725.133 Testing and Maintenance of Equipment  
38 725.134 Access to Communications or Alarm System  
39 725.135 Required Aisle Space  
40 725.137 Arrangements with Local Authorities

41  
42 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES  
43



44	Section	
45	725.150	Applicability
46	725.151	Purpose and Implementation of Contingency Plan
47	725.152	Content of Contingency Plan
48	725.153	Copies of Contingency Plan
49	725.154	Amendment of Contingency Plan
50	725.155	Emergency Coordinator
51	725.156	Emergency Procedures

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53           SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

54		
55	Section	
56	725.170	Applicability
57	725.171	Use of Manifest System
58	725.172	Manifest Discrepancies
59	725.173	Operating Record
60	725.174	Availability, Retention, and Disposition of Records
61	725.175	Annual Report
62	725.176	Unmanifested Waste Report
63	725.177	Additional Reports

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65                           SUBPART F: GROUNDWATER MONITORING

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67	Section	
68	725.190	Applicability
69	725.191	Groundwater Monitoring System
70	725.192	Sampling and Analysis
71	725.193	Preparation, Evaluation, and Response
72	725.194	Recordkeeping and Reporting

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74                           SUBPART G: CLOSURE AND POST-CLOSURE CARE

75		
76	Section	
77	725.210	Applicability
78	725.211	Closure Performance Standard
79	725.212	Closure Plan; Amendment of Plan
80	725.213	Closure; Time Allowed for Closure
81	725.214	Disposal or Decontamination of Equipment, Structures, and Soils
82	725.215	Certification of Closure
83	725.216	Survey Plat
84	725.217	Post-Closure Care and Use of Property
85	725.218	Post-Closure Care Plan; Amendment of Plan
86	725.219	Post-Closure Notices

87 725.220 Certification of Completion of Post-Closure Care  
88 725.221 Alternative Post-Closure Care Requirements

89  
90 SUBPART H: FINANCIAL REQUIREMENTS

91  
92 Section  
93 725.240 Applicability  
94 725.241 Definitions of Terms as Used in this Subpart H  
95 725.242 Cost Estimate for Closure  
96 725.243 Financial Assurance for Closure  
97 725.244 Cost Estimate for Post-Closure Care  
98 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance  
99 725.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure  
100 Care  
101 725.247 Liability Requirements  
102 725.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions  
103 725.251 Promulgation of Forms (Repealed)

104  
105 SUBPART I: USE AND MANAGEMENT OF CONTAINERS

106  
107 Section  
108 725.270 Applicability  
109 725.271 Condition of Containers  
110 725.272 Compatibility of Waste with Containers  
111 725.273 Management of Containers  
112 725.274 Inspections  
113 725.276 Special Requirements for Ignitable or Reactive Wastes  
114 725.277 Special Requirements for Incompatible Wastes  
115 725.278 Air Emission Standards

116  
117 SUBPART J: TANK SYSTEMS

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119 Section  
120 725.290 Applicability  
121 725.291 Assessment of Existing Tank System Integrity  
122 725.292 Design and Installation of New Tank Systems or Components  
123 725.293 Containment and Detection of Releases  
124 725.294 General Operating Requirements  
125 725.295 Inspections  
126 725.296 Response to Leaks or Spills and Disposition of Tank Systems  
127 725.297 Closure and Post-Closure Care  
128 725.298 Special Requirements for Ignitable or Reactive Wastes  
129 725.299 Special Requirements for Incompatible Wastes



173	725.380	Closure and Post-Closure Care
174	725.381	Special Requirements for Ignitable or Reactive Wastes
175	725.382	Special Requirements for Incompatible Wastes
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177		SUBPART N: LANDFILLS
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179	Section	
180	725.400	Applicability
181	725.401	Design Requirements
182	725.402	Action Leakage Rate
183	725.403	Response Actions
184	725.404	Monitoring and Inspections
185	725.409	Surveying and Recordkeeping
186	725.410	Closure and Post-Closure Care
187	725.412	Special Requirements for Ignitable or Reactive Wastes
188	725.413	Special Requirements for Incompatible Wastes
189	725.414	Special Requirements for Liquid Wastes
190	725.415	Special Requirements for Containers
191	725.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
192		
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194		SUBPART O: INCINERATORS
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196	Section	
197	725.440	Applicability
198	725.441	Waste Analysis
199	725.445	General Operating Requirements
200	725.447	Monitoring and Inspections
201	725.451	Closure
202	725.452	Interim Status Incinerators Burning Particular Hazardous Wastes
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204		SUBPART P: THERMAL TREATMENT
205		
206	Section	
207	725.470	Other Thermal Treatment
208	725.473	General Operating Requirements
209	725.475	Waste Analysis
210	725.477	Monitoring and Inspections
211	725.481	Closure
212	725.482	Open Burning; Waste Explosives
213	725.483	Interim Status Thermal Treatment Devices Burning Particular Hazardous Wastes
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215		SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

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217	Section	
218	725.500	Applicability
219	725.501	General Operating Requirements
220	725.502	Waste Analysis and Trial Tests
221	725.503	Inspections
222	725.504	Closure
223	725.505	Special Requirements for Ignitable or Reactive Wastes
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228	Section	
229	725.530	Applicability

SUBPART W: DRIP PADS

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233	Section	
234	725.540	Applicability
235	725.541	Assessment of Existing Drip Pad Integrity
236	725.542	Design and Installation of New Drip Pads
237	725.543	Design and Operating Requirements
238	725.544	Inspections
239	725.545	Closure

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

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243	Section	
244	725.930	Applicability
245	725.931	Definitions
246	725.932	Standards: Process Vents
247	725.933	Standards: Closed-Vent Systems and Control Devices
248	725.934	Test Methods and Procedures
249	725.935	Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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253	Section	
254	725.950	Applicability
255	725.951	Definitions
256	725.952	Standards: Pumps in Light Liquid Service
257	725.953	Standards: Compressors
258	725.954	Standards: Pressure Relief Devices in Gas/Vapor Service



302	725.APPENDIX B	EPA Report Form and Instructions (Repealed)
303	725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
304	725.APPENDIX D	Tests for Significance
305	725.APPENDIX E	Examples of Potentially Incompatible Wastes
306	725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

307  
 308 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the  
 309 Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].  
 310

311 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and  
 312 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.  
 313 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12,  
 314 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10  
 315 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective  
 316 August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in  
 317 R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338,  
 318 effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,  
 319 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at  
 320 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective  
 321 November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990;  
 322 amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at  
 323 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective  
 324 October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in  
 325 R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg.  
 326 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22,  
 327 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18  
 328 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective  
 329 November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in  
 330 R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22  
 331 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective  
 332 April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28,  
 333 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999;  
 334 amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill.  
 335 Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20,  
 336 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at  
 337 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective  
 338 April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23,  
 339 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006;  
 340 amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33  
 341 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890,  
 342 effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. \_\_\_\_\_, effective  
 343 \_\_\_\_\_.  
 344

SUBPART B: GENERAL FACILITY STANDARDS

**Section 725.111 USEPA Identification Number**

Every facility owner or operator must apply to USEPA Region 5 for a USEPA identification number using USEPA Form 8700-12. The facility owner or operator must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA, in accordance with the USEPA notification procedures.

~~BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification. The federal instructions require that an owner or operator file notice for an Illinois facility with the Agency, Bureau of Land (telephone: 217-782-6762).~~

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 725.112 Required Notices**

- a) Receipt from a foreign source.
  - 1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Agency and USEPA Region 5 in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.
  - 2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 must provide a copy of the ~~movement tracking~~ document bearing all required signatures to the ~~foreign exporter~~ notifier, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance, Enforcement Planning, Targeting and Data Division (2254A)(2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, 401 M St., SW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to the competent authorities of all other countries concerned ~~countries~~ within three working days ~~after~~ upon receipt of the shipment. The original of the signed ~~movement tracking~~ document must be maintained at the facility for at least three years. In addition, the owner or operator must send a certificate of recovery to the foreign exporter, to the competent authority of the country of export, to USEPA's Office of Enforcement and Compliance Assurance at the above address by mail, by



388 e-mail without a digital signature followed by mail, or by fax followed by  
389 mail. The owner or operator must complete this sending of a certificate of  
390 recovery as soon as possible, but no later than 30 days after the completion  
391 of recovery, and no later than one calendar year following the receipt of  
392 the hazardous waste.  
393

- 394 b) Before transferring ownership or operation of a facility during its operating life,  
395 or of a disposal facility during the post-closure care period, the owner or operator  
396 must notify the new owner or operator in writing of the requirements of this Part  
397 and 35 Ill. Adm. Code 702 and 703 (also see 35 Ill. Adm. Code 703.155).

398  
399 BOARD NOTE: An owner's or operator's failure to notify the new owner or  
400 operator of the requirements of this Part in no way relieves the new owner or  
401 operator of his obligation to comply with all applicable requirements.  
402

403 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
404

405 **Section 725.115 General Inspection Requirements**  
406

- 407 a) The owner or operator must inspect the facility for malfunctions and deterioration,  
408 operator errors and discharges that may be causing – or which may lead to – the  
409 conditions listed below. The owner or operator must conduct these inspections  
410 often enough to identify problems in time to correct them before they harm  
411 human health or the environment.

412  
413 1) Release of hazardous waste constituents to the environment, or

414  
415 2) A threat to human health.  
416

- 417 b) Written schedule.

418  
419 1) The owner or operator must develop and follow a written schedule for  
420 inspecting all monitoring equipment, safety and emergency equipment,  
421 security devices, and operating and structural equipment (such as dikes  
422 and sump pumps) that are important to preventing, detecting, or  
423 responding to environmental or human health hazards.  
424

425 2) The owner or operator must keep this schedule at the facility.  
426

427 3) The schedule must identify the types of problems (e.g., malfunctions or  
428 deterioration) that are to be looked for during the inspection (e.g.,  
429 inoperative sump pump, leaking fitting, eroding dike, etc.).  
430

- 431 4) The frequency of inspection may vary for the items on the schedule.  
 432 However, the frequency should be based on the rate of deterioration of the  
 433 equipment and the probability of an environmental or human health  
 434 incident if the deterioration, malfunction, or operator error goes  
 435 undetected between inspections. Areas subject to spills, such as loading  
 436 and unloading areas, must be inspected daily when in use, ~~except for the~~  
 437 ~~owner or operator of a Performance Track member facility, which must~~  
 438 ~~inspect at least once each month after approval by the Agency, as~~  
 439 ~~described in subsection (b)(5) of this Section.~~ At a minimum, the  
 440 inspection schedule must include the items and frequencies called for in  
 441 Sections 725.274, 725.293, 725.295, 725.326, 725.360, 725.378, 725.404,  
 442 725.447, 725.477, 725.503, 725.933, 725.952, 725.953, 725.958, and  
 443 725.984 through 725.990, where applicable.  
 444
- 445 5) This subsection (b)(5) corresponds with 40 CFR 265.15(b)(5), which  
 446 became obsolete when USEPA terminated the Performance Track  
 447 Program at 74 Fed. Reg. 22741 (May 14, 2009). USEPA has recognized  
 448 that program-related rules are no longer effective at 75 Fed. Reg. 12989,  
 449 12992, note 1 (Mar. 18, 2010). This statement maintains structural  
 450 consistency with the corresponding federal requirements. ~~The owner or~~  
 451 ~~operator of a Performance Track member facility that chooses to reduce its~~  
 452 ~~inspection frequency must fulfill the following requirements:~~  
 453
- 454 A) ~~It must submit an application to the Agency. The application must~~  
 455 ~~identify its facility as a member of the National Environmental~~  
 456 ~~Performance Track Program, and it must identify the management~~  
 457 ~~units for reduced inspections and the proposed frequency of~~  
 458 ~~inspections. Inspections pursuant to this subsection (b)(5) must be~~  
 459 ~~conducted at least once each month.~~
- 460
- 461 B) ~~Within 60 days, the Agency must notify the owner or operator of~~  
 462 ~~the Performance Track member facility, in writing, if the~~  
 463 ~~application submitted pursuant to subsection (b)(5)(A) of this~~  
 464 ~~Section is approved, denied, or if an extension to the 60-day~~  
 465 ~~deadline is needed. This notice must be placed in the facility's~~  
 466 ~~operating record. The owner or operator of the Performance Track~~  
 467 ~~member facility should consider the application approved if the~~  
 468 ~~Agency does not either deny the application or notify the owner or~~  
 469 ~~operator of the Performance Track member facility of an extension~~  
 470 ~~to the 60-day deadline. In these situations, the owner or operator~~  
 471 ~~of the Performance Track member facility must adhere to the~~  
 472 ~~revised inspection schedule outlined in its application and maintain~~  
 473 ~~a copy of the application in the facility's operating record.~~

474  
475                   e) ~~Any owner or operator of a Performance Track member facility~~  
476 ~~that discontinues its membership or which USEPA terminates from~~  
477 ~~the program must immediately notify the Agency of its change in~~  
478 ~~status. The facility owner or operator must place in its operating~~  
479 ~~record a dated copy of this notification and revert back to the non-~~  
480 ~~Performance Track inspection frequencies within seven calendar~~  
481 ~~days.~~

482  
483                   c) The owner or operator must remedy any deterioration or malfunction of  
484 equipment or structure that the inspection reveals on a schedule that ensures that  
485 the problem does not lead to an environmental or human health hazard. Where a  
486 hazard is imminent or has already occurred, remedial action must be taken  
487 immediately.

488  
489                   d) The owner or operator must record inspections in an inspection log or summary.  
490 The owner or operator must keep these records for at least three years from the  
491 date of inspection. At a minimum, these records must include the date and time  
492 of the inspection, the name of the inspector, a notation of the observations made  
493 and the date, and nature of any repairs or other remedial actions.

494  
495 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
496

497                   SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

498  
499                   **Section 725.152 Content of Contingency Plan**

500  
501                   a) The contingency plan must describe the actions facility personnel must take to  
502 comply with Sections 725.151 and 725.156 in response to fires, explosions, or any  
503 unplanned sudden or non-sudden release of hazardous waste or hazardous waste  
504 constituents to air, soil, or surface water at the facility.

505  
506                   b) If the owner or operator has already prepared a federal Spill Prevention Control  
507 and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112 or 300, or  
508 some other emergency or contingency plan, it needs only amend that plan to  
509 incorporate hazardous waste management provisions that are sufficient to comply  
510 with the requirements of this Part. The owner or operator may develop one  
511 contingency plan that meets all regulatory requirements. USEPA has  
512 recommended that the plan be based on the National Response Team's Integrated  
513 Contingency Plan Guidance (One Plan). When modifications are made to non-  
514 RCRA provisions in an integrated contingency plan, the changes do not trigger  
515 the need for a RCRA permit modification.  
516

517 BOARD NOTE: The federal One Plan guidance appeared in the Federal Register  
 518 at 61 Fed. Reg. 28642 (June 5, 1996), and was corrected at 61 Fed. Reg. 31103  
 519 (June 19, 1996). USEPA, Office of Resource Conservation and Recovery,  
 520 Chemical Emergency Preparedness and Prevention Office, has made these  
 521 documents available on-line for examination and download at  
 522 [yosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm](http://yosemite.epa.gov/oswer/Ceppoweb.nsf/content/serc-lepc-publications.htm).  
 523

- 524 c) The plan must describe arrangements agreed to by local police department, fire  
 525 departments, hospitals, contractors, and State and local emergency response teams  
 526 to coordinate emergency services, pursuant to Section 725.137.  
 527
- 528 d) The plan must list names, addresses, and phone numbers (office and home) of all  
 529 persons qualified to act as emergency coordinator (see Section 725.155), and this  
 530 list must be kept up to date. Where more than one person is listed one must be  
 531 named as primary emergency coordinator and others must be listed in the order in  
 532 which they will assume responsibility as alternates.  
 533
- 534 e) The plan must include a list of all emergency equipment at the facility (such as  
 535 fire extinguishing systems, spill control equipment, communications and alarm  
 536 systems (internal and external), and decontamination equipment) where this  
 537 equipment is required. This list must be kept up to date. In addition, the plan  
 538 must include the location and a physical description of each item on the list and a  
 539 brief outline of its capabilities.  
 540
- 541 f) The plan must include an evacuation plan for facility personnel where there is a  
 542 possibility that evacuation could be necessary. This plan must describe signals to  
 543 be used to begin evacuation, evacuation routes, and alternate evacuation routes (in  
 544 cases where the primary routes could be blocked by releases of hazardous waste  
 545 or fires).  
 546

547 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 548

549 **Section 725.156 Emergency Procedures**  
 550

- 551 a) Whenever there is an imminent or actual emergency situation, the emergency  
 552 coordinator (or his designee when the emergency coordinator is on call) must  
 553 immediately do the following:  
 554

  - 555 1) He or she must activate internal facility alarms or communication systems,  
 556 where applicable, to notify all facility personnel; and  
 557
  - 558 2) He or she must notify appropriate State or local agencies with designated  
 559 response roles if their help is needed.

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

603 recur, or spread to other hazardous waste at the facility. These measures must  
 604 include, where applicable, stopping processes and operations, collecting and  
 605 containing released waste, and removing or isolating containers.  
 606

607 f) If the facility stops operations in response to a fire, explosion or release, the  
 608 emergency coordinator must monitor for leaks, pressure buildup, gas generation,  
 609 or ruptures in valves, pipes, or other equipment, wherever this is appropriate.  
 610

611 g) Immediately after an emergency, the emergency coordinator must provide for  
 612 treating, storing, or disposing of recovered waste, contaminated soil, or surface  
 613 water, or any other material that results from a release, fire, or explosion at the  
 614 facility.  
 615

616 BOARD NOTE: Unless the owner or operator can demonstrate in accordance  
 617 with 35 Ill. Adm. Code 721.103(d) or (e) that the recovered material is not a  
 618 hazardous waste, the owner or operator becomes a generator of hazardous waste  
 619 and must manage it in accordance with all applicable requirements of 35 Ill. Adm.  
 620 Code 722, 723, and 725.  
 621

622 h) The emergency coordinator must ensure that, in the affected areas of the facility,  
 623 the following occur:  
 624

625 1) No waste that may be incompatible with the released material is treated,  
 626 stored, or disposed of until cleanup procedures are completed; and  
 627

628 2) All emergency equipment listed in the contingency plan is cleaned and fit  
 629 for its intended use before operations are resumed.  
 630

631 i) The owner or operator must note in the operating record the time, date, and details  
 632 of any incident that requires implementing the contingency plan. Within 15 days  
 633 after the incident, it must submit a written report on the incident to the Agency.  
 634 The report must include the following information:  
 635

636 1) The name, address, and telephone number of the owner or operator;  
 637

638 2) The name, address, and telephone number of the facility;  
 639

640 3) The date, time, and type of incident (e.g., fire, explosion, etc.);  
 641

642 4) The name and quantity of materials involved;  
 643

644 5) The extent of injuries, if any;  
 645

- 646                   6)     An assessment of actual or potential hazards to human health or the  
647                   environment, where this is applicable; and
- 648
- 649                   7)     The estimated quantity and disposition of recovered material that resulted  
650                   from the incident.

651  
652                   (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

653  
654                   SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

655  
656                   **Section 725.170 Applicability**

657  
658                   The regulations in this Subpart E apply to owners and operators of both on-site and off-site  
659                   facilities, except as Section 725.101 provides otherwise. Sections 725.171, 725.172, and  
660                   725.176 do not apply to owners and operators of on-site facilities that do not receive any  
661                   hazardous waste from off-site sources, nor do they apply to owners and operators of off-site  
662                   facilities with respect to waste military munitions exempted from manifest requirements under  
663                   35 Ill. Adm. Code 726.303(a).

664  
665                   ~~BOARD NOTE: This Section corresponds with 40 CFR 265.70(a) (2005), effective September~~  
666                   ~~5, 2006. The Board omitted 40 CFR 265.70(b), as added at 70 Fed. Reg. 10776 (March 4, 2005),~~  
667                   ~~since that provision only stated the September 5, 2006 effective date for the newer manifest~~  
668                   ~~requirements.~~

669  
670                   (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

671  
672                   **Section 725.171 Use of Manifest System**

- 673                   a)     Receipt of manifested hazardous waste.
- 674
- 675
- 676                   1)     If a facility receives hazardous waste accompanied by a manifest, the  
677                   owner, operator, or its agent must sign and date the manifest, as indicated  
678                   in subsection (a)(2) of this Section, to certify that the hazardous waste  
679                   covered by the manifest was received, that the hazardous waste was  
680                   received except as noted in the discrepancy space of the manifest, or that  
681                   the hazardous waste was rejected as noted in the manifest discrepancy  
682                   space.
- 683
- 684                   2)     If a facility receives a hazardous waste shipment accompanied by a  
685                   manifest, the owner, operator, or its agent must do the following:
- 686
- 687                   A)     It must sign and date, by hand, each copy of the manifest;
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- B) It must note any discrepancies (as defined in Section 725.172(b)) on each copy of the manifest;
  - C) It must immediately give the transporter at least one copy of the manifest;
  - D) It must send a copy of the manifest to the generator within 30 days after delivery; and
  - E) It must retain at the facility a copy of each manifest for at least three years after the date of delivery.
- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
  - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not



732                                    been received);  
733  
734                                    4)     The owner or operator must send a copy of the signed and dated manifest  
735                                    or a signed and dated copy of the shipping paper (if the manifest has not  
736                                    been received within 30 days after delivery) to the generator within 30  
737                                    days after the delivery; and

738  
739                                    BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to  
740                                    send three copies of the manifest to the facility when hazardous waste is  
741                                    sent by rail or water (bulk shipment).

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

745  
746                                    c)     Whenever a shipment of hazardous waste is initiated from a facility, the owner or  
747                                    operator of that facility must comply with the requirements of 35 Ill. Adm. Code  
748                                    722.

749  
750                                    BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to  
751                                    the on-site accumulation of hazardous wastes by generators. Therefore, the  
752                                    provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that  
753                                    are shipping hazardous waste which they generated at that facility.

754  
755                                    d)     Within three working days of the receipt of a shipment subject to Subpart H of 35  
756                                    Ill. Adm. Code 722, the owner or operator of ~~at~~the facility must provide a copy of  
757                                    the ~~movement~~tracking document bearing all required signatures to the  
758                                    ~~exporter~~notifier; to the Office of Enforcement and Compliance Assurance, Office  
759                                    of Federal Activities, ~~International Compliance Assurance, Enforcement~~  
760                                    ~~Planning, Targeting and Data Division (2254A)(2222A)~~, Environmental  
761                                    Protection Agency, ~~1200 Pennsylvania Ave., NW, 401 M St., SW,~~ Washington,  
762                                    DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois  
763                                    Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276;  
764                                    and to competent authorities of all other ~~countries~~concerned-countries. The  
765                                    original copy of the tracking document must be maintained at the facility for at  
766                                    least three years from the date of signature.

767  
768                                    (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

769  
770     **Section 725.172 Manifest Discrepancies**

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772                                    a)     "Manifest discrepancies" are defined as any one of the following:  
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- 1) Significant differences (as defined by subsection (b) of this Section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;
  - 2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or
  - 3) Container residues, which are residues that exceed the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b).
- b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.
- c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.
- d) Rejection of hazardous waste.
- 1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.
  - 2) While the facility owner or operator is making arrangements for forwarding rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to

817 the first transporter designated on the manifest prepared under subsection  
 818 (e) or (f) of this Section.

819  
 820 e) Except as provided in subsection (e)(7) of this Section, for full or partial load  
 821 rejections and residues that are to be sent off-site to an alternate facility, the  
 822 facility owner or operator is required to prepare a new manifest in accordance  
 823 with 35 Ill. Adm. Code 722.120(a) and the instructions set forth in subsections  
 824 (e)(1) through (e)(6) of this Section:

825  
 826 1) The facility owner or operator must writeWrite the generator's USEPA  
 827 identification number in Item 1 of the new manifest. The facility owner or  
 828 operator must writeWrite the generator's name and mailing address in Item  
 829 5 of the new manifest. If the mailing address is different from the  
 830 generator's site address, then the facility owner or operator must write the  
 831 generator's site address in the designated space in Item 5.

832  
 833 2) The facility owner or operator must writeWrite the name of the alternate  
 834 designated facility and the facility's USEPA identification number in the  
 835 designated facility block (Item 8) of the new manifest.

836  
 837 3) The facility owner or operator must copyCopy the manifest tracking  
 838 number found in Item 4 of the old manifest to the Special Handling and  
 839 Additional Information Block of the new manifest, and indicate that the  
 840 shipment is a residue or rejected waste from the previous shipment.

841  
 842 4) The facility owner or operator must copyCopy the manifest tracking  
 843 number found in Item 4 of the new manifest to the manifest reference  
 844 number line in the Discrepancy Block of the old manifest (Item 18a).

845  
 846 5) The facility owner or operator must writeWrite the USDOT description for  
 847 the rejected load or the residue in Item 9 (USDOT Description) of the new  
 848 manifest and write the container types, quantity, and volumes of waste.

849  
 850 6) The facility owner or operator must signSign the Generator's/Offeror's  
 851 Certification to certify, as the offeror of the shipment, that the waste has  
 852 been properly packaged, marked and labeled and is in proper condition for  
 853 transportation, and mail a signed copy of the manifest to the generator  
 854 identified in Item 5 of the new manifest.

855  
 856 7) For full load rejections that are made while the transporter remains present  
 857 at the facility, the facility owner or operator may forward the rejected  
 858 shipment to the alternate facility by completing Item 18b of the original  
 859 manifest and supplying the information on the next destination facility in

860 the Alternate Facility space. The facility owner or operator must retain a  
 861 copy of this manifest for its records, and then give the remaining copies of  
 862 the manifest to the transporter to accompany the shipment. If the original  
 863 manifest is not used, then the facility owner or operator must use a new  
 864 manifest and comply with subsections (e)(1) through (e)(6) of this Section.  
 865

866 f) Except as provided in subsection (f)(7) of this Section, for rejected wastes and  
 867 residues that must be sent back to the generator, the facility owner or operator is  
 868 required to prepare a new manifest in accordance with 35 Ill. Adm. Code  
 869 722.120(a) and the instructions set forth in subsections (f)(1) through (f)(6) and  
 870 (f)(8) of this Section:  
 871

- 872 1) The facility owner or operator must writeWrite the facility's USEPA  
 873 identification number in Item 1 of the new manifest. The facility owner or  
 874 operator must writeWrite the facility'sgenerator's name and mailing  
 875 address in Item 5 of the new manifest. If the mailing address is different  
 876 from the facility'sgenerator's site address, then the facility owner or  
 877 operator must write the facility'sgenerator's site address in the designated  
 878 space for Item 5 of the new manifest.  
 879
- 880 2) The facility owner or operator must writeWrite the name of the initial  
 881 generator and the generator's USEPA identification number in the  
 882 designated facility block (Item 8) of the new manifest.  
 883
- 884 3) The facility owner or operator must copyCopy the manifest tracking  
 885 number found in Item 4 of the old manifest to the Special Handling and  
 886 Additional Information Block of the new manifest, and indicate that the  
 887 shipment is a residue or rejected waste from the previous shipment.  
 888
- 889 4) The facility owner or operator must copyCopy the manifest tracking  
 890 number found in Item 4 of the new manifest to the manifest reference  
 891 number line in the Discrepancy Block of the old manifest (Item 18a).  
 892
- 893 5) The facility owner or operator must writeWrite the USDOT description for  
 894 the rejected load or the residue in Item 9 (USDOT Description) of the new  
 895 manifest and write the container types, quantity, and volumes of waste.  
 896
- 897 6) The facility owner or operator must signSign the Generator's/Offerrer's  
 898 Certification to certify, as offeror of the shipment, that the waste has been  
 899 properly packaged, marked and labeled and is in proper condition for  
 900 transportation.  
 901

902 7) For full load rejections that are made while the transporter remains at the  
 903 facility, the facility owner or operator may return the shipment to the  
 904 generator with the original manifest by completing Item 18b of the  
 905 manifest and supplying the generator's information in the Alternate  
 906 Facility space. The facility owner or operator must retain a copy for its  
 907 records and then give the remaining copies of the manifest to the  
 908 transporter to accompany the shipment. If the original manifest is not  
 909 used, then the facility owner or operator must use a new manifest and  
 910 comply with subsections (f)(1) through (f)(6) and (f)(8) of this Section.

911  
 912 8) For full or partial load rejections and container residues contained in non-  
 913 empty containers that are returned to the generator, the facility owner or  
 914 operator must also comply with the exception reporting requirements in  
 915 Section 722.142(a).

916  
 917 g) If a facility owner or operator rejects a waste or identifies a container residue that  
 918 exceeds the quantity limits for empty containers set forth in 35 Ill. Adm. Code  
 919 721.107(b) after it has signed, dated, and returned a copy of the manifest to the  
 920 delivering transporter or to the generator, the facility owner or operator must  
 921 amend its copy of the manifest to indicate the rejected wastes or residues in the  
 922 discrepancy space of the amended manifest. The facility owner or operator must  
 923 also copy the manifest tracking number from Item 4 of the new manifest to the  
 924 Discrepancy space of the amended manifest, and must re-sign and date the  
 925 manifest to certify to the information as amended. The facility owner or operator  
 926 must retain the amended manifest for at least three years from the date of  
 927 amendment, and must, within 30 days, send a copy of the amended manifest to  
 928 the transporter and generator that received copies prior to their being amended.

929  
 930 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

931  
 932 **SUBPART H: FINANCIAL REQUIREMENTS**

933  
 934 **Section 725.241 Definitions of Terms as Used in this Subpart H**

- 935  
 936 a) "Closure plan" means the plan for closure prepared in accordance with the  
 937 requirements of Section 725.212.  
 938  
 939 b) "Current closure cost estimate" means the most recent of the estimates prepared in  
 940 accordance with Sections 725.242(a), (b), and (c).  
 941  
 942 c) "Current post-closure cost estimate" means the most recent of the estimates  
 943 prepared in accordance with Sections 725.244(a), (b), and (c).  
 944

- 945 d) "Parent corporation" means a corporation that directly owns at least 50 percent of  
946 the voting stock of the corporation that is the facility owner or operator; the latter  
947 corporation is deemed a "subsidiary" of the parent corporation.  
948
- 949 e) "Post-closure plan" means the plan for post-closure care prepared in accordance  
950 with the requirements of Sections 725.217 through 725.220.  
951
- 952 f) The following terms are used in the specifications for the financial tests for  
953 closure, post-closure care, and liability coverage. The definitions are intended to  
954 assist in the understanding of these regulations and are not intended to limit the  
955 meanings of terms in a way that conflicts with generally accepted accounting  
956 practices.  
957
- 958 "Assets" mean all existing and all probable future economic benefits  
959 obtained or controlled by a particular entity.  
960
- 961 "Current assets" mean cash or other assets or resources commonly  
962 identified as those that are reasonably expected to be realized in cash or  
963 sold or consumed during the normal operating cycle of the business.  
964
- 965 "Current liabilities" means obligations whose liquidation is reasonably  
966 expected to require the use of existing resources properly classifiable as  
967 current assets or the creation of other current liabilities.  
968
- 969 "Current plugging and abandonment cost estimate" means the most recent  
970 of the estimates prepared in accordance with 35 Ill. Adm. Code  
971 704.212(a), (b), and (c).  
972
- 973 "Independently audited" refers to an audit performed by an independent  
974 certified public accountant in accordance with generally accepted auditing  
975 standards.  
976
- 977 "Liabilities" means probable future sacrifices of economic benefits arising  
978 from present obligations to transfer assets or provide services to other  
979 entities in the future as a result of past transactions or events.  
980
- 981 "Net working capital" means current assets minus current liabilities.  
982
- 983 "Net worth" means total assets minus total liabilities and is equivalent to  
984 owner's equity.  
985
- 986 "Tangible net worth" means the tangible assets that remain after deducting  
987 liabilities; such assets would not include intangibles, such as goodwill and

988 rights to patents or royalties.

989  
990 g) In the liability insurance requirements the terms "bodily injury" and "property  
991 damage" have the meanings given below. The Board intends the meanings of  
992 other terms used in the liability insurance requirements to be consistent with their  
993 common meanings within the insurance industry. The definitions given below of  
994 several of the terms are intended to assist in the understanding of these regulations  
995 and are not intended to limit their meanings in a way that conflicts with general  
996 insurance industry usage.

997  
998 "Accidental occurrence" means an accident, including continuous or  
999 repeated exposure to conditions, that results in bodily injury or property  
1000 damage neither expected nor intended from the standpoint of the insured.

1001  
1002 "Bodily injury" means bodily injury, sickness, or disease sustained by a  
1003 person, including death resulting from any of these at any time. However,  
1004 this term does not include those liabilities that, consistent with standard  
1005 insurance industry practices, are excluded from coverage in liability  
1006 insurance policies for bodily injury.

1007  
1008 "Environmental damage" means the injurious presence in or upon land,  
1009 the atmosphere or any watercourse or body of water of solid, liquid,  
1010 gaseous, or thermal contaminants, irritants, or pollutants.  
1011 BOARD NOTE: This term is used in the definition of "pollution  
1012 incident."

1013  
1014 "Legal defense costs" means any expenses that an insurer incurs in  
1015 defending against claims of third parties brought under the terms and  
1016 conditions of an insurance policy.

1017  
1018 "Nonsudden accidental occurrence" means an occurrence that takes place  
1019 over time and involves continuous or repeated exposure.

1020  
1021 "Pollutants" means any solid, liquid, gaseous, or thermal irritant or  
1022 contaminant, including smoke, vapor, soot, fumes, acids, alkalis,  
1023 chemicals, and waste.  
1024 BOARD NOTE: This definition is used in the definition of "pollution  
1025 incident."

1026  
1027 "Pollution incident" means emission, discharge, release or escape of  
1028 pollutants into or upon land, the atmosphere, or any watercourse or body  
1029 of water, provided that such emission, discharge, release, or escape results  
1030 in "environmental damage." The entirety of any such emission, discharge,

1031 release, or escape must be deemed to be one "pollution incident." "Waste"  
1032 includes materials to be recycled, reconditioned, or reclaimed. The term  
1033 "pollution incident" includes an "occurrence."

1034 BOARD NOTE: This definition is used in the definition of "property  
1035 damage."

1036  
1037 "Property damage" means as follows:

1038  
1039 Either of the following:

1040  
1041 Physical injury to, destruction of, or contamination of  
1042 tangible property, including all resulting loss of use of that  
1043 property; or

1044  
1045 Loss of use of tangible property that is not physically  
1046 injured, destroyed, or contaminated, but has been  
1047 evacuated, withdrawn from use, or rendered inaccessible  
1048 because of a "pollution incident."

1049  
1050 This term does not include those liabilities that, consistent with  
1051 standard insurance industry practices, are excluded from coverage  
1052 in liability insurance policies for property damage.

1053  
1054 "Sudden accidental occurrence" means an occurrence that is not  
1055 continuous or repeated in nature.

1056  
1057 h) "Substantial business relationship" means the extent of a business relationship  
1058 necessary under applicable state law to make a guarantee contract issued incident  
1059 to that relationship valid and enforceable. A "substantial business relationship"  
1060 must arise from a pattern of recent or ongoing business transactions, in addition to  
1061 the guarantee itself, such that the Agency can reasonably determine that a  
1062 substantial business relationship currently exists between the guarantor and the  
1063 owner or operator that is adequate consideration to support the obligation of the  
1064 guarantee relating to any liability towards a third-party. "Applicable state law," as  
1065 used in this subsection (h), means the laws of the State of Illinois and those of any  
1066 sister state that govern the guarantee and the adequacy of the consideration.  
1067 ~~that one business entity has an ownership interest in another.~~

1068  
1069 BOARD NOTE: Derived from 40 CFR 265.141(h) (2010) and the discussion at  
1070 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently  
1071 defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). Any Agency  
1072 determination that a substantial business relationship exists is subject to Board  
1073 review pursuant to Section 40 of the Act [415 ILCS 5/40].



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(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 725.242 Cost Estimate for Closure**

- a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.
  - 1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and
  - 2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party that is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
  - 3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes, or non-hazardous wastes if permitted by the Agency pursuant to~~applicable under~~ Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.
  - 4) The owner or operator must not incorporate a zero cost for hazardous waste, or non-hazardous waste if permitted by the Agency pursuant to~~applicable under~~ Section 725.213(d), that may have economic value.
- b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with Section 725.243. For an owner or operator using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Agency, as specified in Section 725.243(e)(5). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross

1117 National Product (Deflator), as published by the U.S. Department of Commerce in  
1118 its Survey of Current Business, as specified in subsections (b)(1) and (b)(2) of this  
1119 Section. The inflation factor is the result of dividing the latest published annual  
1120 Deflator by the Deflator for the previous year.

- 1121
- 1122 1) The first adjustment is made by multiplying the closure cost estimate by  
1123 the inflation factor. The result is the adjusted closure cost estimate.
- 1124
- 1125 2) Subsequent adjustments are made by multiplying the latest adjusted  
1126 closure cost estimate by the latest inflation factor.
- 1127

1128 BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the  
1129 National Income and Product Account Table, published by U.S. Department of  
1130 Commerce, Bureau of Economic Analysis, National Economic Accounts,  
1131 available on-line at the following web address: [www.bea.gov/national/nipaweb/](http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr)  
1132 TableView.asp?SelectedTable=13&FirstYear=2002&LastYear=2004&Freq=Qtr.  
1133

- 1134 c) During the active life of the facility, the owner or operator must revise the closure  
1135 cost estimate no later than 30 days after a revision has been made to the closure  
1136 plan that increases the cost of closure. If the owner or operator has an approved  
1137 closure plan, the closure cost estimate must be revised no later than 30 days after  
1138 the Agency has approved the request to modify the closure plan if the change in  
1139 the closure plan increases the cost of closure. The revised closure cost estimate  
1140 must be adjusted for inflation as specified in subsection (b) of this Section.
- 1141
- 1142 d) The owner or operator must keep the following at the facility during the operating  
1143 life of the facility: the latest closure cost estimate prepared in accordance with  
1144 subsections (a) and (c) of this Section, and, when this estimate has been adjusted  
1145 in accordance with subsection (b) of this Section, the latest adjusted closure cost  
1146 estimate.
- 1147

1148 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1149

1150 **Section 725.243 Financial Assurance for Closure**  
1151

1152 An owner or operator of each facility must establish financial assurance for closure of the  
1153 facility. The owner or operator must choose from the options specified in subsections (a)  
1154 through (e) of this Section.

- 1155
- 1156 a) Closure trust fund.
- 1157
- 1158 1) An owner or operator may satisfy the requirements of this Section by  
1159 establishing a closure trust fund that conforms to the requirements of this

1160 subsection and submitting an original, signed duplicate of the trust  
 1161 agreement to the Agency. The trustee must be an entity that has the  
 1162 authority to act as a trustee and whose trust operations are regulated and  
 1163 examined by a federal or State agency.  
 1164

1165 2) The wording of the trust agreement must be as specified in 35 Ill. Adm.  
 1166 Code 724.251, and the trust agreement must be accompanied by a formal  
 1167 certification of acknowledgment, as specified in 35 Ill. Adm. Code  
 1168 724.251. Schedule A of the trust agreement must be updated within 60  
 1169 days after a change in the amount of the current closure cost estimate  
 1170 covered by the agreement.  
 1171

1172 3) Payments into the trust fund must be made annually by the owner or  
 1173 operator over the 20 years beginning May 19, 1981, or over the remaining  
 1174 operating life of the facility as estimated in the closure plan, whichever  
 1175 period is shorter; this period is hereafter referred to as the "pay-in period."  
 1176 The payments into the closure trust fund must be made as follows:  
 1177

1178 A) The first payment must be made before May 19, 1981, except as  
 1179 provided in subsection (a)(5) of this Section. The first payment  
 1180 must be at least equal to the current closure cost estimate, except as  
 1181 provided in subsection (f) of this Section, divided by the number of  
 1182 years in the pay-in period.  
 1183

1184 B) Subsequent payments must be made no later than 30 days after  
 1185 each anniversary date of the first payment. The amount of each  
 1186 subsequent payment must be determined by this formula:  
 1187

$$1188 \text{ Next payment} = \frac{CE - CV}{Y}$$

1189 Where:

- 1190
- CE = the current closure cost estimate
  - CV = the current value of the trust fund
  - Y = the number of years remaining in the pay-in period

1191 4) The owner or operator may accelerate payments into the trust fund or may  
 1192 deposit the full amount of the current closure cost estimate at the time the  
 1193 fund is established. However, the owner or operator must maintain the  
 1194 value of the fund at no less than the value that the fund would have if  
 1195 annual payments were made as specified in subsection (a)(3) of this  
 1196 Section.  
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- 5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3) of this Section.
  - 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.
  - 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
  - 8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.
  - 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8) of this Section, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
  - 10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursement for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursement for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Agency must instruct the trustee to make reimbursement in those amounts as the Agency specifies in writing if the Agency determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must

1242 withhold reimbursement of such amounts as it deems prudent until it  
1243 determines, in accordance with subsection (h) of this Section, that the  
1244 owner or operator is no longer required to maintain financial assurance for  
1245 final closure of the facility. If the Agency does not instruct the trustee to  
1246 make such reimbursements, the Agency must provide the owner or  
1247 operator a detailed written statement of reasons.  
1248

1249 11) The Agency must agree to termination of the trust when either of the  
1250 following occurs:

- 1251 A) An owner or operator substitutes alternate financial assurance, as  
1252 specified in this Section; or
- 1253 B) The Agency releases the owner or operator from the requirements  
1254 of this Section in accordance with subsection (h) of this Section.  
1255  
1256  
1257

1258 b) Surety bond guaranteeing payment into a closure trust fund.

- 1259 1) An owner or operator may satisfy the requirements of this Section by  
1260 obtaining a surety bond that conforms to the requirements of this  
1261 subsection (b) and submitting the bond to the Agency. The surety  
1262 company issuing the bond must, at a minimum, be among those listed as  
1263 acceptable sureties on federal bonds in Circular 570 of the U.S.  
1264 Department of the Treasury.  
1265  
1266

1267 BOARD NOTE: The U.S. Department of the Treasury updates Circular  
1268 570, "Companies Holding Certificates of Authority as Acceptable Sureties  
1269 on Federal Bonds and as Acceptable Reinsurance Companies," on an  
1270 annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the  
1271 Internet from the following website: <http://www.fms.treas.gov/c570/>.  
1272

- 1273 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code  
1274 724.251.  
1275

- 1276 3) The owner or operator that uses a surety bond to satisfy the requirements  
1277 of this Section must also establish a standby trust fund. Under the terms  
1278 of the bond, all payments made thereunder will be deposited by the surety  
1279 directly into the standby trust fund in accordance with instructions from  
1280 the Agency. This standby trust fund must meet the requirements specified  
1281 in subsection (a) of this Section, except as follows:  
1282

- 1283 A) An original, signed duplicate of the trust agreement must be  
1284 submitted to the Agency with the surety bond; and

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- B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
    - i) Payments into the trust fund, as specified in subsection (a);
    - ii) Updating of Schedule A of the trust agreement (see 35 Ill. Adm. Code 724.251(a)) to show current closure cost estimates;
    - iii) Annual valuations, as required by the trust agreement; and
    - iv) Notices of nonpayment, as required by the trust agreement.
  - 4) The bond must guarantee that the owner or operator will:
    - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
    - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the Board or a court of competent jurisdiction; or
    - C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
  - 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
  - 6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section.
  - 7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current

1328 closure cost estimate decreases, the penal sum may be reduced to the  
1329 amount of the current closure cost estimate following written approval by  
1330 the Agency.  
1331

1332 8) Under the terms of the bond, the surety may cancel the bond by sending  
1333 notice of cancellation by certified mail to the owner or operator and to the  
1334 Agency. Cancellation may not occur, however, during the 120 days  
1335 beginning on the date of receipt of the notice of cancellation by both the  
1336 owner or operator and the Agency, as evidenced by the return receipts.  
1337

1338 9) The owner or operator may cancel the bond if the Agency has given prior  
1339 written consent based on its receipt of evidence of alternate financial  
1340 assurance, as specified in this Section.  
1341

1342 c) Closure letter of credit.  
1343

1344 1) An owner or operator may satisfy the requirements of this Section by  
1345 obtaining an irrevocable standby letter of credit that conforms to the  
1346 requirements of this subsection (c) and submitting the letter to the Agency.  
1347 The issuing institution must be an entity that has the authority to issue  
1348 letters of credit and whose letter-of-credit operations are regulated and  
1349 examined by a federal or State agency.  
1350

1351 2) The wording of the letter of credit must be as specified in 35 Ill. Adm.  
1352 Code 724.251.  
1353

1354 3) An owner or operator that uses a letter of credit to satisfy the requirements  
1355 of this Section must also establish a standby trust fund. Under the terms  
1356 of the letter of credit, all amounts paid pursuant to a draft by the Agency  
1357 must be deposited by the issuing institution directly into the standby trust  
1358 fund in accordance with instructions from the Agency. This standby trust  
1359 fund must meet the requirements of the trust fund specified in subsection  
1360 (a) of this Section, except as follows:  
1361

1362 A) An original, signed duplicate of the trust agreement must be  
1363 submitted to the Agency with the letter of credit; and  
1364

1365 B) Unless the standby trust fund is funded pursuant to the  
1366 requirements of this Section, the following are not required by  
1367 these regulations:  
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1369 i) Payments into the trust fund, as specified in subsection (a)  
1370 of this Section;

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



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- 9) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
- 1426  
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1428
- 10) The Agency must return the letter of credit to the issuing institution for termination when one of the following occurs:
- 1429  
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1431
- A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
- 1432  
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1434
- B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h) of this Section.
- 1435  
1436
- d) Closure insurance.
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- 1) An owner or operator may satisfy the requirements of this Section by obtaining closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.
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- 2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.
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- 3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in subsection (f) of this Section. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
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- 4) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that, once final closure begins, the insurer will be responsible

- 1457 for paying out funds, up to an amount equal to the face amount of the  
 1458 policy, upon the direction of the Agency to such party or parties as the  
 1459 Agency specifies.  
 1460
- 1461 5) After beginning partial or final closure, an owner or operator or any other  
 1462 person authorized to conduct closure may request reimbursement for  
 1463 closure expenditures by submitting itemized bills to the Agency. The  
 1464 owner or operator may request reimbursement for partial closure only if  
 1465 the remaining value of the policy is sufficient to cover the maximum costs  
 1466 of closing the facility over its remaining operating life. Within 60 days  
 1467 after receiving bills for closure activities, the Agency must instruct the  
 1468 insurer to make reimbursement in such amounts as the Agency specifies in  
 1469 writing if the Agency determines that the partial or final closure  
 1470 expenditures are in accordance with the approved closure plan or  
 1471 otherwise justified. If the Agency determines that the maximum cost of  
 1472 closure over the remaining life of the facility will be significantly greater  
 1473 than the face amount of the policy, it must withhold reimbursement of  
 1474 such amounts as it deems prudent until it determines, in accordance with  
 1475 subsection (h) of this Section, that the owner or operator is no longer  
 1476 required to maintain financial assurance for final closure of the particular  
 1477 facility. If the Agency does not instruct the insurer to make such  
 1478 reimbursements, the Agency must provide the owner or operator with a  
 1479 detailed written statement of reasons.  
 1480
- 1481 6) The owner or operator must maintain the policy in full force and effect  
 1482 until the Agency consents to termination of the policy by the owner or  
 1483 operator as specified in subsection (d)(10) of this Section. Failure to pay  
 1484 the premium, without substitution of alternate financial assurance as  
 1485 specified in this Section, will constitute a significant violation of these  
 1486 regulations, warranting such remedy as the Board may impose pursuant to  
 1487 the Environmental Protection Act. Such violation will be deemed to begin  
 1488 upon receipt by the Agency of a notice of future cancellation, termination,  
 1489 or failure to renew due to nonpayment of the premium, rather than upon  
 1490 the date of expiration.  
 1491
- 1492 7) Each policy must contain a provision allowing assignment of the policy to  
 1493 a successor owner or operator. Such assignment may be conditional upon  
 1494 consent of the insurer, provided such consent is not unreasonably refused.  
 1495
- 1496 8) The policy must provide that the insurer may not cancel, terminate, or fail  
 1497 to renew the policy except for failure to pay the premium. The automatic  
 1498 renewal of the policy must, at a minimum, provide the insured with the  
 1499 option of renewal at the face amount of the expiring policy. If there is a

1500 failure to pay the premium, the insurer may elect to cancel, terminate, or  
 1501 fail to renew the policy by sending notice by certified mail to the owner or  
 1502 operator and the Agency. Cancellation, termination, or failure to renew  
 1503 may not occur, however, during the 120 days beginning with the date of  
 1504 receipt of the notice by both the Agency and the owner or operator, as  
 1505 evidenced by the return receipts. Cancellation, termination, or failure to  
 1506 renew may not occur and the policy will remain in full force and effect in  
 1507 the event that, on or before the date of expiration, one of the following  
 1508 occurs:

- 1509
- 1510 A) The Agency deems the facility abandoned;
- 1511
- 1512 B) Interim status is terminated or revoked;
- 1513
- 1514 C) Closure is ordered by the Board or a court of competent
- 1515 jurisdiction;
- 1516
- 1517 D) The owner or operator is named as debtor in a voluntary or
- 1518 involuntary proceeding under 11 USC (Bankruptcy); or
- 1519
- 1520 E) The premium due is paid.

1521

1522 9) Whenever the current closure cost estimate increases to an amount greater  
 1523 than the face amount of the policy, the owner or operator, within 60 days  
 1524 after the increase, must either cause the face amount to be increased to an  
 1525 amount at least equal to the current closure cost estimate and submit  
 1526 evidence of such increase to the Agency, or obtain other financial  
 1527 assurance as specified in this Section to cover the increase. Whenever the  
 1528 current closure cost estimate decreases, the face amount may be reduced to  
 1529 the amount of the current closure cost estimate following written approval  
 1530 by the Agency.

1531

1532 10) The Agency must give written consent to the owner or operator that the  
 1533 owner or operator may terminate the insurance policy when either of the  
 1534 following occurs:

- 1535
- 1536 A) An owner or operator substitutes alternate financial assurance, as
- 1537 specified in this Section; or
- 1538
- 1539 B) The Agency releases the owner or operator from the requirements
- 1540 of this Section in accordance with subsection (h) of this Section.

1541

1542 e) Financial test and corporate guarantee for closure.

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

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- 2) The phrase "current closure and post-closure cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrase "current plugging and abandonment cost estimates," as used in subsection (e)(1) of this Section, refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
  - 3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following items to the Agency:
    - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;
    - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
    - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:
      - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
      - ii) In connection with that procedure, that no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
  - 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.
  - 5) After the initial submission of items specified in subsection (e)(3) of this Section, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3) of

- 1629 this Section.  
 1630  
 1631 6) If the owner or operator no longer meets the requirements of subsection  
 1632 (e)(1) of this Section, the owner or operator must send notice to the  
 1633 Agency of intent to establish alternate financial assurance as specified in  
 1634 this Section. The notice must be sent by certified mail within 90 days  
 1635 after the end of the fiscal year for which the year-end financial data show  
 1636 that the owner or operator no longer meets the requirements. The owner  
 1637 or operator must provide the alternate financial assurance within 120 days  
 1638 after the end of such fiscal year.  
 1639  
 1640 7) The Agency may, based on a reasonable belief that the owner or operator  
 1641 may no longer meet the requirements of subsection (e)(1) of this Section,  
 1642 require reports of financial condition at any time from the owner or  
 1643 operator in addition to those specified in subsection (e)(3) of this Section.  
 1644 If the Agency finds, on the basis of such reports or other information, that  
 1645 the owner or operator no longer meets the requirements of subsection  
 1646 (e)(1) of this Section, the owner or operator must provide alternate  
 1647 financial assurance as specified in this Section within 30 days after  
 1648 notification of such a finding.  
 1649  
 1650 8) The Agency may disallow use of this test on the basis of qualifications in  
 1651 the opinion expressed by the independent certified public accountant in the  
 1652 accountant's report on examination of the owner's or operator's financial  
 1653 statements (see subsection (e)(3)(B) of this Section). An adverse opinion  
 1654 or a disclaimer of opinion will be cause for disallowance. The Agency  
 1655 must evaluate other qualifications on an individual basis. The owner or  
 1656 operator must provide alternate financial assurance as specified in this  
 1657 Section within 30 days after notification of the disallowance.  
 1658  
 1659 9) The owner or operator is no longer required to submit the items specified  
 1660 in subsection (e)(3) of this Section when either of the following occurs:  
 1661  
 1662 A) An owner or operator substitutes alternate financial assurance, as  
 1663 specified in this Section; or  
 1664  
 1665 B) The Agency releases the owner or operator from the requirements  
 1666 of this Section in accordance with subsection (h) of this Section.  
 1667  
 1668 10) An owner or operator may meet the requirements of this Section by  
 1669 obtaining a written guarantee, hereafter referred to as "corporate  
 1670 guarantee." The guarantor must be the direct or higher-tier parent  
 1671 corporation of the owner or operator, a firm whose parent corporation is

1672 also the parent corporation of the owner or operator, or a firm with a  
 1673 "substantial business relationship" with the owner or operator. The  
 1674 guarantor must meet the requirements for owners or operators in  
 1675 subsections (e)(1) through (e)(8) of this Section, and must comply with the  
 1676 terms of the corporate guarantee. The wording of the corporate guarantee  
 1677 must be identical to the wording specified in 35 Ill. Adm. Code 724.251.  
 1678 The corporate guarantee must accompany the items sent to the Agency as  
 1679 specified in subsection (e)(3) of this Section. One of these items must be  
 1680 the letter from the guarantor's chief financial officer. If the guarantor's  
 1681 parent corporation is also the parent corporation of the owner or operator,  
 1682 the letter must describe the value received in consideration of the  
 1683 guarantee. If the guarantor is a firm with a "substantial business  
 1684 relationship" with the owner or operator, this letter must describe this  
 1685 substantial business relationship" and the value received in consideration  
 1686 of the guarantee. The terms of the corporate guarantee must provide the  
 1687 following:

1688  
 1689 A) That, if the owner or operator fails to perform final closure of a  
 1690 facility covered by the corporate guarantee in accordance with the  
 1691 closure plan and other interim status requirements whenever  
 1692 required to do so, the guarantor will do so or establish a trust fund  
 1693 as specified in subsection (a) of this Section, in the name of the  
 1694 owner or operator.

1695  
 1696 B) That the corporate guarantee will remain in force unless the  
 1697 guarantor sends notice of cancellation by certified mail to the  
 1698 owner or operator and to the Agency. Cancellation may not occur,  
 1699 however, during the 120 days beginning on the date of receipt of  
 1700 the notice of cancellation by both the owner or operator and the  
 1701 Agency, as evidenced by the return receipts.

1702  
 1703 C) That, if the owner or operator fails to provide alternate financial  
 1704 assurance as specified in this Section and obtain the written  
 1705 approval of such alternate assurance from the Agency within 90  
 1706 days after receipt by both the owner or operator and the Agency of  
 1707 a notice of cancellation of the corporate guarantee from the  
 1708 guarantor, the guarantor will provide such alternate financial  
 1709 assurance in the name of the owner or operator.

1710  
 1711 f) Use of multiple financial mechanisms. An owner or operator may satisfy the  
 1712 requirements of this Section by establishing more than one financial mechanism  
 1713 per facility. These mechanisms are limited to trust funds, surety bonds, letters of  
 1714 credit, and insurance. The mechanisms must be as specified in subsections (a)

1715 through (d) of this Section, respectively, except that it is the combination of  
 1716 mechanisms, rather than the single mechanism, that must provide financial  
 1717 assurance for an amount at least equal to the current closure cost estimate. If an  
 1718 owner or operator uses a trust fund in combination with a surety bond or a letter  
 1719 of credit, the owner or operator may use the trust fund as the standby trust fund  
 1720 for the other mechanisms. A single standby trust fund may be established for two  
 1721 or more mechanisms. The Agency may use any or all of the mechanisms to  
 1722 provide for closure of the facility.  
 1723

1724 g) Use of a financial mechanism for multiple facilities. An owner or operator may  
 1725 use a financial assurance mechanism specified in this Section to meet the  
 1726 requirements of this Section for more than one facility. Evidence of financial  
 1727 assurance submitted to the Agency must include a list showing, for each facility,  
 1728 the USEPA identification number, name, address, and the amount of funds for  
 1729 closure assured by the mechanism. The amount of funds available through the  
 1730 mechanism must be no less than the sum of funds that would be available if a  
 1731 separate mechanism had been established and maintained for each facility. The  
 1732 amount of funds available to the Agency must be sufficient to close all of the  
 1733 owner or operator's facilities. In directing funds available through the mechanism  
 1734 for closure of any of the facilities covered by the mechanism, the Agency may  
 1735 direct only the amount of funds designated for that facility, unless the owner or  
 1736 operator agrees to the use of additional funds available under the mechanism.  
 1737

1738 h) Release of the owner or operator from the requirements of this Section. Within  
 1739 60 days after receiving certifications from the owner or operator and a qualified  
 1740 Professional Engineer that final closure has been completed in accordance with  
 1741 the approved closure plan, the Agency must notify the owner or operator in  
 1742 writing that the owner or operator is no longer required by this Section to  
 1743 maintain financial assurance for closure of the facility, unless the Agency  
 1744 determines that closure has not been in accordance with the approved closure  
 1745 plan. The Agency must provide the owner or operator a detailed written  
 1746 statement of any such determination that closure has not been in accordance with  
 1747 the approved closure plan.  
 1748

1749 i) Appeal. The following Agency actions are deemed to be permit modifications or  
 1750 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code  
 1751 702.184(e)(3)):  
 1752

- 1753 1) An increase in, or a refusal to decrease the amount of, a bond, letter of  
 1754 credit, or insurance; or
- 1755 2) Requiring alternate assurance upon a finding that an owner or operator or  
 1756 parent corporation no longer meets a financial test.  
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(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

**Section 725.274 Inspections**

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

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

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART J: TANK SYSTEMS

**Section 725.295 Inspections**

- a) The owner or operator must inspect the following, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells, etc.) to ensure that the tank system is being operated according to its design.
  
- b) Except as noted under subsection (c) of this Section, the owner or operator must inspect the following at least once each operating day:
  - 1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
  
  - 2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and
  
  - 3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation, etc.).

BOARD NOTE: Section 725.115(c) requires the owner or operator to

1801 remedy any deterioration or malfunction the owner or operator finds.  
 1802 Section 725.296 requires the owner or operator to notify the Agency  
 1803 within 24 hours of confirming a release. Also, federal 40 CFR 302 may  
 1804 require the owner or operator to notify the National Response Center of a  
 1805 release.  
 1806

1807 c) The owner or operator of a tank system that either uses leak detection equipment  
 1808 to alert facility personnel to leaks or implements established workplace practices  
 1809 to ensure leaks are promptly identified must inspect at least weekly those areas  
 1810 described in subsections (b)(1) through (b)(3) of this Section. Use of the alternate  
 1811 inspection schedule must be documented in the facility's operating record. This  
 1812 documentation must include a description of the established workplace practices  
 1813 at the facility.  
 1814

1815 d) This subsection (d) corresponds with 40 CFR 265.195(d), which became obsolete  
 1816 when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741  
 1817 (May 14, 2009). USEPA has recognized that program-related rules are no longer  
 1818 effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement  
 1819 maintains structural consistency with the corresponding federal requirements.~~The~~  
 1820 ~~owner or operator of a Performance Track member facility may inspect on a less~~  
 1821 ~~frequent basis, after approval by the Agency, but it must inspect at least once each~~  
 1822 ~~month. To apply for a less than weekly inspection frequency, the owner or~~  
 1823 ~~operator of the Performance Track member facility must follow the procedures~~  
 1824 ~~described in Section 725.115(b)(5).~~  
 1825

1826 e) Ancillary equipment that is not provided with secondary containment, as  
 1827 described in Section 725.293(f)(1) through (f)(4), must be inspected at least once  
 1828 each operating day.  
 1829

1830 f) The owner or operator must inspect cathodic protection systems, if present,  
 1831 according to, at a minimum, the following schedule to ensure that they are  
 1832 functioning properly:  
 1833

- 1834 1) The proper operation of the cathodic protection system must be confirmed  
 1835 within six months after initial installation, and annually thereafter; and  
 1836
- 1837 2) All sources of impressed current must be inspected or tested, as  
 1838 appropriate, at least every other month.  
 1839

1840 BOARD NOTE: The practices described in "Control of External Corrosion on  
 1841 Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE  
 1842 Recommended Practice RP0285-85, or "Cathodic Protection of Underground  
 1843 Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632,

1844 each incorporated by reference in 35 Ill. Adm. Code 720.111(a), may be used,  
1845 where applicable, as guidelines in maintaining and inspecting cathodic protection  
1846 systems.

1847  
1848 g) The owner or operator must document in the operating record of the facility an  
1849 inspection of those items in subsections (a) and (b) of this Section.

1850  
1851 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1852

1853 **Section 725.301 Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month**  
1854

1855 a) The requirements of this Section apply to small quantity generators that generate  
1856 more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month,  
1857 that accumulate hazardous waste in tanks for less than 180 days (or 270 days if  
1858 the generator must ship the waste greater than 200 miles), and that do not  
1859 accumulate over 6,000 kg on-site at any time.

1860  
1861 b) A generator of between 100 and 1,000 kg/mo hazardous waste must comply with  
1862 the following general operating requirements:

1863  
1864 1) Treatment or storage of hazardous waste in tanks must comply with  
1865 Section 725.117(b);

1866  
1867 2) Hazardous wastes or treatment reagents must not be placed in a tank if  
1868 they could cause the tank or its inner liner to rupture, leak, corrode, or  
1869 otherwise fail before the end of its intended life;

1870  
1871 3) Uncovered tanks must be operated to ensure at least 60 centimeters (2  
1872 feet) of freeboard unless the tank is equipped with a containment structure  
1873 (e.g., dike or trench), a drainage control system, or a diversion structure  
1874 (e.g., standby tank) with a capacity that equals or exceeds the volume of  
1875 the top 60 centimeters (2 feet) of the tank; and

1876  
1877 4) Where hazardous waste is continuously fed into a tank, the tank must be  
1878 equipped with a means to stop this inflow (e.g., waste feed cutoff system  
1879 or by-pass system to a stand-by tank).

1880  
1881 BOARD NOTE: These systems are intended to be used in the event of a leak or  
1882 overflow from the tank due to a system failure (e.g., a malfunction in the  
1883 treatment process, a crack in the tank, etc.).

1884  
1885 c) Except as noted in subsection (d) of this Section, a generator of between 100 and  
1886 1,000 kg/mo accumulating hazardous waste in tanks must inspect the following,

1887 where present:

- 1888
- 1889 1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass
- 1890 systems, and drainage systems) at least once each operating day, to ensure
- 1891 that it is in good working order;
- 1892
- 1893 2) Data gathered from monitoring equipment (e.g., pressure and temperature
- 1894 gauges) at least once each operating day to ensure that the tank is being
- 1895 operated according to its design;
- 1896
- 1897 3) The level of waste in the tank at least once each operating day to ensure
- 1898 compliance with subsection (b)(3) of this Section;
- 1899
- 1900 4) The construction materials of the tank at least weekly to detect corrosion
- 1901 or leaking of fixtures or seams; and
- 1902
- 1903 5) The construction materials of and the area immediately surrounding
- 1904 discharge confinement structures (e.g., dikes) at least weekly to detect
- 1905 erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).
- 1906

1907 BOARD NOTE: As required by Section 725.115(c), the owner or operator must  
 1908 remedy any deterioration or malfunction the owner or operator finds.

1909

1910 d) A generator that accumulates between 100 and 1,000 kg/mo of hazardous waste in  
 1911 tanks or tank systems which have full secondary containment and which either  
 1912 uses leak detection equipment to alert facility personnel to leaks or implements  
 1913 established workplace practices to ensure leaks are promptly identified must  
 1914 inspect at least weekly, where applicable, the areas identified in subsections (c)(1)  
 1915 through (c)(5) of this Section. Use of the alternate inspection schedule must be  
 1916 documented in the facility's operating record. This documentation must include a  
 1917 description of the established workplace practices at the facility.

1918

1919 e) This subsection (e) corresponds with 40 CFR 265.201(e), which became obsolete  
 1920 when USEPA terminated the Performance Track Program at 74 Fed. Reg. 22741  
 1921 (May 14, 2009). USEPA has recognized that program-related rules are no longer  
 1922 effective at 75 Fed. Reg. 12989, 12992, note 1 (Mar. 18, 2010). This statement  
 1923 maintains structural consistency with the corresponding federal requirements. The  
 1924 owner or operator of a Performance Track member facility may inspect on a less  
 1925 frequent basis after approval by the Agency, but it must inspect at least once each  
 1926 month. To apply for a less than weekly inspection frequency, the owner or  
 1927 operator of the Performance Track member facility must follow the procedures  
 1928 described in Section 725.115(b)(5).  
 1929

1930 f) A generator of between 100 and 1,000 kg/mo accumulating hazardous waste in  
1931 tanks must, upon closure of the facility, remove all hazardous waste from tanks,  
1932 discharge control equipment, and discharge confinement structures.  
1933

1934 BOARD NOTE: At closure, as throughout the operating period, unless the owner  
1935 or operator demonstrates, in accordance with 35 Ill. Adm. Code 721.103(d) or (e),  
1936 that any solid waste removed from the tank is not a hazardous waste, the owner or  
1937 operator becomes a generator of hazardous waste and must manage it in  
1938 accordance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and  
1939 725.  
1940

1941 g) A generator of between 100 and 1,000 kg/mo must comply with the following  
1942 special requirements for ignitable or reactive waste:  
1943

1944 1) Ignitable or reactive waste must not be placed in a tank unless one of the  
1945 following conditions are fulfilled:  
1946

1947 A) The waste is treated, rendered, or mixed before or immediately  
1948 after placement in a tank so that the following is true of the waste:  
1949

1950 i) The resulting waste, mixture, or dissolution of material no  
1951 longer meets the definition of ignitable or reactive waste  
1952 under 35 Ill. Adm. Code 721.121 or 721.123, and  
1953

1954 ii) Section 725.117(b) is complied with;  
1955

1956 B) The waste is stored or treated in such a way that it is protected  
1957 from any material or conditions that may cause the waste to ignite  
1958 or react; or  
1959

1960 C) The tank is used solely for emergencies.  
1961

1962 2) The owner or operator of a facility that treats or stores ignitable or reactive  
1963 waste in covered tanks must comply with the buffer zone requirements for  
1964 tanks contained in Tables 2-1 through 2-6 of "Flammable and  
1965 Combustible Liquids Code," NFPA 30, incorporated by reference in 35 Ill.  
1966 Adm. Code 720.111(a).  
1967

1968 hf) A generator of between 100 and 1,000 kg/mo must comply with the following  
1969 special requirements for incompatible wastes:  
1970

1971 1) Incompatible wastes or incompatible wastes and materials (see appendix  
1972 V of 40 CFR 265 (Examples of Potentially Incompatible Waste),

1973 incorporated by reference in 35 Ill. Adm. Code 720.111(b), for examples)  
1974 must not be placed in the same tank unless Section 725.117(b) is complied  
1975 with.

1976  
1977 2) Hazardous waste must not be placed in an unwashed tank that previously  
1978 held an incompatible waste or material unless Section 725.117(b) is  
1979 complied with.

1980  
1981 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1982  
1983 SUBPART N: LANDFILLS

1984  
1985 **Section 725.414 Special Requirements for Liquid Wastes**

1986  
1987 a) The placement of bulk or non-containerized liquid hazardous waste or hazardous  
1988 waste containing free liquids (whether or not sorbents have been added) in any  
1989 landfill is prohibited.

1990  
1991 b) Containers holding free liquids must not be placed in a landfill unless one of the  
1992 following conditions is fulfilled:

1993  
1994 1) One of the following occurs with regard to all free-standing liquid:

1995  
1996 A) It has been removed by decanting or other methods;

1997  
1998 B) It has been mixed with sorbent or solidified so that free-standing  
1999 liquid is no longer observed; or

2000  
2001 C) It has been otherwise eliminated;

2002  
2003 2) The container is very small, such as an ampule;

2004  
2005 3) The container is designed to hold free liquids for use other than storage,  
2006 such as a battery or capacitor; or

2007  
2008 4) The container is a lab pack, as defined in Section 724.416, and is disposed  
2009 of in accordance with Section 724.416.

2010  
2011 c) To demonstrate the absence or presence of free liquids in either a containerized or  
2012 a bulk waste, the following test must be used: Method 9095B (Paint Filter  
2013 Liquids Test), as described in "Test Methods for Evaluating Solid Wastes,  
2014 Physical/Chemical Methods," USEPA publication number EPA 530/SW-846,  
2015 incorporated by reference in 35 Ill. Adm. Code 720.111(a).

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- d) This subsection (d) corresponds with 40 CFR 265.314(d), which recites a past effective date. This statement maintains structural parity with the federal regulations.
  - e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are one of the following: materials listed or described in subsection ~~(e)(1)(f)(1)~~ of this Section; materials that pass one of the tests in subsection ~~(e)(2)(f)(2)~~ of this Section; or materials that are determined by the Board to be nonbiodegradable through the adjusted standard procedure of Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104.
    - 1) Nonbiodegradable sorbents are the following:
      - A) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon, etc.); or
      - B) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene, and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or
      - C) Mixtures of these nonbiodegradable materials.
    - 2) Tests for nonbiodegradable sorbents.
      - A) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a) (Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi), incorporated by reference in 35 Ill. Adm. Code 720.111(a);
      - B) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b) (Standard Practice for

2059 Determining Resistance of Plastics to Bacteria), incorporated by  
 2060 reference in 35 Ill. Adm. Code 720.111(a); or

2061  
 2062 C) The sorbent material is determined to be non-biodegradable under  
 2063 OECD Guideline for Testing of Chemicals, Method301B (CO<sub>2</sub>  
 2064 Evolution (Modified Sturm Test)), incorporated by reference in 35  
 2065 Ill. Adm. Code 720.111(a).

2066  
 2067 f) The placement of any liquid that is not a hazardous waste in a landfill is  
 2068 prohibited. (See 35 Ill. Adm. Code 729.311.)

2069  
 2070 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

2071  
 2072 **Section 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums**  
 2073 **(Lab Packs)**

2074  
 2075 Small containers of hazardous waste in overpacked drums (lab packs) may be placed in a landfill  
 2076 if the following requirements are met:

2077  
 2078 a) Hazardous waste must be packaged in non-leaking inside containers. The inside  
 2079 containers must be of a design and constructed of a material that will not react  
 2080 dangerously with, be decomposed by, or be ignited by the waste held therein.  
 2081 Inside containers must be tightly and securely sealed. The inside containers must  
 2082 be of the size and type specified in the USDOT hazardous materials regulations  
 2083 (49 CFR 173 (Shippers – General Requirements for Shipments and Packages),  
 2084 178 (Specifications for Packagings), and 179 (Specifications for Tank Cars), each  
 2085 incorporated by reference in 35 Ill. Adm. Code 720.111(b)), if those regulations  
 2086 specify a particular inside container for the waste.

2087  
 2088 b) The inside containers must be overpacked in an open head USDOT-specification  
 2089 metal shipping container (49 CFR 178 (Specifications for Packagings) and 179  
 2090 (Specifications for Tank Cars), of no more than 416 liter (110 gallon) capacity  
 2091 and surrounded by, at a minimum, a sufficient quantity of sorbent material,  
 2092 determined to be nonbiodegradable in accordance with 35 Ill. Adm. Code  
 2093 725.414(e)~~725.414(f)~~ to completely sorb all of the liquid contents of the inside  
 2094 containers. The metal outer container must be full after packing with inside  
 2095 containers and sorbent material.

2096  
 2097 c) The sorbent material used must not be capable of reacting dangerously with,  
 2098 being decomposed by, or being ignited by the contents of the inside containers, in  
 2099 accordance with Section 725.117(b).

2100  
 2101 d) Incompatible wastes, as defined in 35 Ill. Adm. Code 720.110, must not be placed



- 2102 in the same outside container.  
 2103  
 2104 e) Reactive waste, other than cyanide- or sulfide-bearing waste, as defined in 35 Ill.  
 2105 Adm. Code 721.123(a)(5), must be treated or rendered non-reactive prior to  
 2106 packaging in accordance with subsections (a) through (d) of this Section.  
 2107 Cyanide- or sulfide-bearing reactive waste may be packaged in accordance with  
 2108 subsections (a) through (d) of this Section without first being treated or rendered  
 2109 non-reactive.  
 2110  
 2111 f) Such disposal is in compliance with the requirements of 35 Ill. Adm. Code 728.  
 2112 Persons that incinerate lab packs according to the requirements of 35 Ill. Adm.  
 2113 Code 728.142(c)(1) may use fiber drums in place of metal outer containers. Such  
 2114 fiber drums must meet the USDOT specifications in 49 CFR 173.12 (Exceptions  
 2115 for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm.  
 2116 Code 720.111(b), and be overpacked according to subsection (b) of this Section.  
 2117  
 2118 g) Pursuant to 35 Ill. Adm. Code 729.312, the use of labpacks for disposal of liquid  
 2119 wastes or wastes containing free liquids allowed under this Section is restricted to  
 2120 labwaste and non-periodic waste, as those terms are defined in that Part.  
 2121

2122 (Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
 2123

2124 **SUBPART DD: CONTAINMENT BUILDINGS**  
 2125

2126 **Section 725.1101 Design and Operating Standards**  
 2127

- 2128 a) All containment buildings must comply with the following design and operating  
 2129 standards:  
 2130  
 2131 1) The containment building must be completely enclosed with a floor, walls,  
 2132 and a roof to prevent exposure to the elements (e.g. precipitation, wind,  
 2133 run on) and to assure containment of managed wastes;  
 2134  
 2135 2) The floor and containment walls of the unit, including the secondary  
 2136 containment system if required under subsection (b) of this Section, must  
 2137 be designed and constructed of materials of sufficient strength and  
 2138 thickness to support themselves, the waste contents, and any personnel and  
 2139 heavy equipment that operate within the unit, and to prevent failure due to  
 2140 pressure gradients, settlement, compression, or uplift, physical contact  
 2141 with the hazardous wastes to which they are exposed; climatic conditions;  
 2142 and the stresses of daily operation, including the movement of heavy  
 2143 equipment within the unit and contact of such equipment with containment  
 2144 walls. The unit must be designed so that it has sufficient structural

- 2145 strength to prevent collapse or other failure. All surfaces to be in contact  
 2146 with hazardous wastes must be chemically compatible with those wastes.  
 2147 The containment building must meet the structural integrity requirements  
 2148 established by professional organizations generally recognized by the  
 2149 industry such as the American Concrete Institute (ACI) and the American  
 2150 Society of Testing Materials (ASTM). If appropriate to the nature of the  
 2151 waste management operation to take place in the unit, an exception to the  
 2152 structural strength requirement may be made for light-weight doors and  
 2153 windows that meet these criteria:  
 2154
- 2155 A) They provide an effective barrier against fugitive dust emissions  
 2156 under subsection (c)(1)(D) of this Section; and  
 2157
  - 2158 B) The unit is designed and operated in a fashion that assures that  
 2159 wastes will not actually come in contact with these openings;  
 2160
- 2161 3) Incompatible hazardous wastes or treatment reagents must not be placed in  
 2162 the unit or its secondary containment system if they could cause the unit or  
 2163 secondary containment system to leak, corrode, or otherwise fail; and  
 2164
  - 2165 4) A containment building must have a primary barrier designed to withstand  
 2166 the movement of personnel, waste, and handling equipment in the unit  
 2167 during the operating life of the unit and appropriate for the physical and  
 2168 chemical characteristics of the waste to be managed.  
 2169
- 2170 b) For a containment building used to manage hazardous wastes containing free  
 2171 liquids or treated with free liquids (the presence of which is determined by the  
 2172 paint filter test, a visual examination, or other appropriate means), the owner or  
 2173 operator must include the following design features:  
 2174
- 2175 1) A primary barrier designed and constructed of materials to prevent the  
 2176 migration of hazardous constituents into the barrier (e.g., a geomembrane  
 2177 covered by a concrete wear surface).  
 2178
  - 2179 2) A liquid collection and removal system to minimize the accumulation of  
 2180 liquid on the primary barrier of the containment building:  
 2181
- 2182 A) The primary barrier must be sloped to drain liquids to the  
 2183 associated collection system; and  
 2184
  - 2185 B) Liquids and waste must be collected and removed to minimize  
 2186 hydraulic head on the containment system at the earliest  
 2187 practicable time.

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- 3) A secondary containment system including a secondary barrier designed and constructed to prevent migration of hazardous constituents into the barrier, and a leak detection system that is capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practicable time.
    - A) The requirements of the leak detection component of the secondary containment system are satisfied by installation of a system that is, at a minimum, as follows:
      - i) It is constructed with a bottom slope of 1 percent or more; and
      - ii) It is constructed of a granular drainage material with a hydraulic conductivity of  $1 \times 10^{-2}$  cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of  $3 \times 10^{-5}$  m<sup>2</sup>/sec or more.
    - B) If treatment is to be conducted in the building, an area in which such treatment will be conducted must be designed to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building.
    - C) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of Section 725.293(e)(1). In addition, the containment building must meet the requirements of subsections 725.293(b) and (c) to be an acceptable secondary containment system for a tank.)
  - 4) For existing units other than 90-day generator units, USEPA may delay the secondary containment requirement for up to two years, based on a demonstration by the owner or operator that the unit substantially meets the standards of this Subpart DD. In making this demonstration, the

owner or operator must do each of the following:

- A) Provide written notice to USEPA of their request by November 16, 1992. This notification must describe the unit and its operating practices with specific reference to the performance of existing systems, and specific plans for retrofitting the unit with secondary containment;
- B) Respond to any comments from USEPA on these plans within 30 days; and
- C) Fulfill the terms of the revised plans, if such plans are approved by USEPA.

c) Owners or operators of all containment buildings must do each of the following:

- 1) It must use controls and practice to ensure containment of the hazardous waste within the unit, and at a minimum do each of the following:
  - A) It must maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier;
  - B) It must maintain the level of the stored or treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded;
  - C) It must take measures to prevent the tracking of hazardous waste out of the unit by personnel or by equipment used in handling the waste. An area must be designated to decontaminate equipment and any rinsate must be collected and properly managed; and
  - D) It must take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b)). In addition, all associated particulate collection devices (e.g., fabric filter, electrostatic precipitator) must be operated and maintained with sound air pollution control practices (see 40 CFR 60 for guidance). This state of no visible emissions must be maintained effectively at all times during routine operating and maintenance

2274 conditions, including when vehicles and personnel are entering and  
2275 exiting the unit;

2276  
2277 BOARD NOTE: At 40 CFR 264.1101(c)(1)(iv), USEPA cites "40  
2278 CFR part 60, subpart 292." At 57 Fed. Reg. 37217 (August 18,  
2279 1992), USEPA repeats this citation in the preamble discussion of  
2280 adoption of the rules. No such provision exists in the Code of  
2281 Federal Regulations. While ~~section~~ 40 CFR 60.292 of the federal  
2282 regulations pertains to control of fugitive dust emissions, that  
2283 provision is limited in its application to glass melting furnaces.  
2284 The Board has chosen to use the general citation: "40 CFR 60."  
2285

- 2286 2) It must obtain and keep on-site a certification by a qualified Professional  
2287 Engineer that the containment building design meets the requirements of  
2288 subsections (a) through (c) of this Section;
- 2289  
2290 3) Throughout the active life of the containment building, if the owner or  
2291 operator detects a condition that could lead to or has caused a release of  
2292 hazardous waste, it must repair the condition promptly, in accordance with  
2293 the following procedures:
- 2294  
2295 A) Upon detection of a condition that has caused to a release of  
2296 hazardous wastes (e.g., upon detection of leakage from the primary  
2297 barrier) the owner or operator must do the following:
- 2298  
2299 i) Enter a record of the discovery in the facility operating  
2300 record;
- 2301  
2302 ii) Immediately remove the portion of the containment  
2303 building affected by the condition from service;
- 2304  
2305 iii) Determine what steps must be taken to repair the  
2306 containment building, remove any leakage from the  
2307 secondary collection system, and establish a schedule for  
2308 accomplishing the cleanup and repairs; and
- 2309  
2310 iv) Within seven days after the discovery of the condition,  
2311 notify the Agency in writing of the condition, and within 14  
2312 working days, provide a written notice to the Agency with  
2313 a description of the steps taken to repair the containment  
2314 building, and the schedule for accomplishing the work;
- 2315  
2316 B) The Agency must review the information submitted, make a

determination regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify the owner or operator of the determination and the underlying rationale in writing; and

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

4) It must inspect and record in the facility's operating record at least once every seven days, ~~except for the owner or operator of a Performance Track member facility, which must inspect the record at least once each month after approval of the Agency,~~ data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. ~~To apply for a reduced inspection frequency, the owner or operator of a Performance Track member facility must follow the procedures described in Section 725.115(b)(5).~~

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

- 1) Design and operate each area in accordance with the requirements enumerated in subsections (a) through (c) of this Section;
- 2) Take measures to prevent the release of liquids or wet materials into areas without secondary containment; and
- 3) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system.

2360

2361

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)