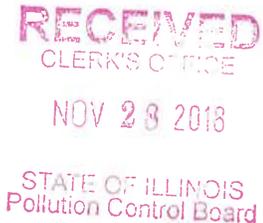




OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

November 21, 2018



POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 42, Issue 48 of the Illinois Register, dated 11/30/2018.

ADOPTED RULES

Water Use Designations and Site-Specific Water Quality Standards 35 Ill. Adm. Code 303 Point of Contact: Nancy Hoepfner	20947
RCRA and UIC Permit Programs 35 Ill. Adm. Code 702 Point of Contact: Mike McCambridge	20953
RCRA Permit Program 35 Ill. Adm. Code 703 Point of Contact: Mike McCambridge	20993
UIC Permit Program 35 Ill. Adm. Code 704 Point of Contact: Mike McCambridge	21095
Procedures for Permit Issuance 35 Ill. Adm. Code 705 Point of Contact: Mike McCambridge	21179
Hazardous Waste Management System: General 35 Ill. Adm. Code 720 Point of Contact: Mike McCambridge	21215
Solid Waste Disposal: General Provisions	

Index Department - Administrative Code Division - 111 East Monroe Springfield, IL 62756



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35 Ill. Adm. Code 810	21304
Point of Contact: Mike McCambridge	
Standards for New Solid Waste Landfills	
35 Ill. Adm. Code 811	21330
Point of Contact: Mike McCambridge	
Information to Be Submitted in a Permit Application	
35 Ill. Adm. Code 812	21430
Point of Contact: Mike McCambridge	
JCAR REVIEW OF EXISTING RULES STATEMENT OF OBJECTIONS	
Emissions Reduction Market System	
35 Ill. Adm. Code 205	21475
Point of Contact: Crystal Bockewitz	
JCAR REVIEW OF EXISTING RULES STATEMENT OF RECOMMENDATIONS	
Emissions Reduction Market System	
35 Ill. Adm. Code 205	21472
Point of Contact: Crystal Bockewitz	

If you have any questions, you may contact the Administrative Code Division at
(217) 782 - 7017.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Emissions Reduction Market System

Code Citation: 35 Ill. Adm. Code 205

Section Numbers: 205.115

Date Originally Published in the *Illinois Register*: 4/13/18
42 Ill. Reg. 6572

At its meeting on 11/13/18, the Joint Committee on Administrative Rules issued a Recommendation to the above-referenced rulemaking. The Committee recommends that, if PCB and EPA believe this program is no longer warranted, they should seek repeal of Section 9.8 of the Environmental Protection Act [415 ILCS 5], which requires EPA to design and carry out an emissions reductions market program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

POLLUTION CONTROL BOARD

Heading of the Part: Emissions Reduction Market System

Code Citation: 35 Ill. Adm. Code 205

Section Numbers: 205.115

Date Originally Published in the *Illinois Register*: 4/13/18
42 Ill. Reg. 6572

At its meeting on 11/13/18, the Joint Committee on Administrative Rules objected to the above-referenced rulemaking because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking. Additionally, JCAR objected to EPA's implementation of the policy stated in this rulemaking prior to adoption of this rulemaking by PCB.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: RCRA and UIC Permit Programs
- 2) Code citation: 35 Ill. Adm. Code 702
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
702.101	Amendment
702.103	Amendment
702.105	Amendment
702.106	Amendment
702.107	Amendment
702.108	Amendment
702.109	Amendment
702.110	Amendment
702.120	Amendment
702.123	Amendment
702.125	Amendment
702.126	Amendment
702.152	Amendment
702.162	Amendment
702.163	Amendment
702.181	Amendment
702.186	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 9633; June 15, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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

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First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 11) Differences between the proposal and the final version: A table in a document entitled “Identical-in-Substance Rulemaking Addendum (Final)” that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board’s review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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 JCAR.

Since the Notices of Proposed Amendments appeared in the June 15, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.

- 14) Are there any other rulemakings pending on this Part? No.

- 15) Summary and purpose of rulemaking: The amendments to Part 702 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 703 through 705, 720 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the *Illinois Register*. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

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NOTICE OF ADOPTED AMENDMENTS

When the Board filed the adopted amendments and submitted them for publication in the *Illinois Register*, the anticipated schedule for publication of all 20 parts of this rulemaking was as follows:

Group 1: Parts 702, 703, 704, 705, 720, 810, 811, and 812.

Group 2: Parts 721 and 722.

Group 3: Parts 723, 724, and 726.

Group 4: Parts 725, 727, and 730.

Group 5: Parts 728, 733, 738, and 739.

Section 13(c) of the Act (415 ILCS 5/13(c) (2016)) requires the Board to adopt UIC rules that are identical-in-substance to UIC rules adopted by USEPA. The Illinois UIC rules are in 35 Ill. Adm. Code 704, 730, and 738. USEPA did not amend its UIC rules in any way that requires Board action during 2016 or 2017. Rather, the Board reviewed the Illinois UIC rules and finds that non-substantive revisions and corrections are needed in 35 Ill. Adm. Code 704, 730, and 738. *See* 415 ILCS 5/7.2(b) (2016). The Board opened docket R18-31 for this purpose and consolidated it with dockets R17-14, R17-15, and R18-12.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking updates the Illinois hazardous waste, underground injection control (UIC), and Municipal Solid Waste Landfill (MSWLF) rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during calendar years 2016 and 2017, embracing two update periods: July 1, 2016 through December 31, 2016 and July 1, 2017 through December 31, 2017.

The following USEPA actions form the basis for the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking:

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November 28, 2016 (81 Fed. Reg. 85696)—Hazardous Waste Export-Import Revisions: USEPA revised requirements for importing and exporting hazardous waste at 40 C.F.R. 260 through 267, 271, and 273. USEPA intended to provide greater protection of human health and the environment and greater consistency with current requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD). USEPA also intended to implement electronic submission of import- and export-related documents into an Automated Export System.

November 28, 2016 (81 Fed. Reg. 85732)—Generator Improvements Rule (GIR): USEPA adopted the GIR, which extensively revised requirements for hazardous waste generators. USEPA revised all parts of the hazardous waste rules: 40 C.F.R. 260 through 268, 270, 271, 273, and 279. The GIR also included revisions to RCRA Subtitle D rules in 40 C.F.R. 257 and 258. The federal MSWLF rules are codified in 40 C.F.R. 258. USEPA intended that reorganizing the hazardous waste generator requirements would make them simpler. USEPA also intended to address gaps in the rules to make them more effective and protective of human health and the environment. USEPA also corrected inadvertent errors and removed obsolete provisions.

August 29, 2017 (82 Fed. Reg. 41015)—Automated Export System (AES) Filing Compliance Date: USEPA established the AES filing compliance date for hazardous waste exports. As of December 31, 2017, exporters of manifested hazardous waste, universal waste, spent lead-acid batteries for recycling or disposal, and cathode ray tubes (CRTs) for recycling must use the AES for export shipments. After the AES filing compliance date, the use of paper reporting was no longer permissible for these exports.

December 26, 2017 (82 Fed. Reg. 60894)—Barring Claims of Confidential Business Information (CBI) for Hazardous Waste Import, Export, and Transit Documents: USEPA further revised the rules for imports and exports of hazardous waste. No person can assert a confidential business information (CBI) claim for documents relating to import, export, and transit of hazardous waste or to export of excluded CRTs.

A comprehensive description of the adopted amendments is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 702 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

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The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Sections 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4(a)] provide 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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 702

RCRA AND UIC PERMIT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
702.101	Purpose, Scope, and Applicability
702.102	Electronic Reporting
702.103	Trade Secret or Non-Disclosable Information Submitted to the Agency or Board
702.104	References
702.105	Rulemaking
702.106	Adoption of Agency Criteria
702.107	Permit Appeals and Review of Agency Determinations
702.108	Variations and Adjusted Standards
702.109	Enforcement Actions
702.110	Definitions

SUBPART B: PERMIT APPLICATIONS

Section	
702.120	Permit Application
702.121	Who Applies
702.122	Completeness
702.123	Information Requirements
702.124	Recordkeeping
702.125	Continuation of Expiring Permits
702.126	Signatories to Permit Applications and Reports

SUBPART C: PERMIT CONDITIONS

Section	
702.140	Conditions Applicable to all Permits
702.141	Duty to Comply
702.142	Duty to Reapply
702.143	Need to Halt or Reduce Activity Not a Defense
702.144	Duty to Mitigate
702.145	Proper Operation and Maintenance

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702.146	Permit Actions
702.147	Property Rights
702.148	Duty to Provide Information
702.149	Inspection and Entry
702.150	Monitoring and Records
702.151	Signature Requirements
702.152	Reporting Requirements
702.160	Establishing Permit Conditions
702.161	Duration of Permits
702.162	Schedules of Compliance
702.163	Alternative Schedules of Compliance
702.164	Recording and Reporting

SUBPART D: ISSUED PERMITS

Section	
702.181	Effect of a Permit
702.182	Transfer
702.183	Modification
702.184	Causes for Modification
702.185	Facility Siting
702.186	Revocation
702.187	Minor Modifications

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11926, effective July 24, 1985; amended in R85-23 at 10 Ill. Reg. 13274, effective July 29, 1986; amended in R86-1 at 10 Ill. Reg. 14083, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6131, effective March 24, 1987; amended in R87-5 at 11 Ill. Reg. 19376, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2579, effective January 15, 1988; amended in R87-29 at 12 Ill. Reg. 6673, effective March 28, 1988; amended in R87-39 at 12 Ill. Reg. 13083, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18452, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3089, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6273, effective April 16, 1990; amended in R92-10 at 17 Ill. Reg. 5769, effective March 26, 1993; amended in R93-16 at 18 Ill. Reg. 6918, effective April 26, 1994; amended in R94-5 at 18 Ill. Reg. 18284, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9913, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11210, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 532, effective December 16, 1997; amended in R99-15 at 23 Ill.

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Reg. 9359, effective July 26, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18585, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 438, effective December 20, 2006; amended in R11-2/R11-16 at 35 Ill. Reg. 17647, effective October 14, 2011; amended in R11-14 at 36 Ill. Reg. 1588, effective January 20, 2012; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 702.101 Purpose, Scope, and Applicability

- a) Coverage:
 - 1) The permit regulations of 35 Ill. Adm. Code 702 through 705 include provisions for the following two permit programs:
 - A) The RCRA (Resource Conservation and Recovery Act) permit program pursuant to Title V and Title X of the Environmental Protection Act [~~415 ILCS 5/Title V and Title X~~].
 - B) The UIC (Underground Injection Control) permit program pursuant to Title III and Title X of the Environmental Protection Act [~~415 ILCS 5/Title III and Title X~~].
 - 2) The regulations of 35 Ill. Adm. Code 702 through 705 cover basic permitting requirements (35 Ill. Adm. Code 702 through 704) and procedures for processing of permit applications (35 Ill. Adm. Code 705) for the RCRA and UIC permit programs.
 - 3) The regulations of 35 Ill. Adm. Code 702 through 705 are derived from 40 CFR 124, 144, and 270.
- b) Structure:
 - 1) The regulations of 35 Ill. Adm. Code 702 through 705 comprise the following four Parts:
 - A) This Part contains definitions applicable to 35 Ill. Adm. Code 702 through 705. It also contains basic permitting requirements for the RCRA and UIC programs.

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- B) The regulations of 35 Ill. Adm. Code 703 contain requirements specific to RCRA permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 703, 35 Ill. Adm. Code 703 will control.
 - C) The regulations of 35 Ill. Adm. Code 704 contain requirements specific to UIC permits. In case of inconsistency between 35 Ill. Adm. Code 702 and 704, 35 Ill. Adm. Code 704 will control.
 - D) The regulations of 35 Ill. Adm. Code 705 establish procedures for issuance of RCRA and UIC permits by the Agency.
- 2) The structure and coverage of 35 Ill. Adm. Code 702 through 704 are indicated in the following table:

	<u>RCRA and</u> AND -UIC	RCRA	UIC
	SUBPART of	SUBPART of	SUBPART of
	35 Ill. Adm. Code 702	35 Ill. Adm. Code 703	35 Ill. Adm. Code 704
General	A	A	A
Prohibitions	—	B	B
Authorization by Rule	—	C	C
Permit Application	B	D	D
Special Forms of Permits	—	E	—
Permit Conditions	C	F	E
Issued Permits	D	—	H
Permit Modification	—	G	—
Remedial Action Plans	—	H	—
Integration with MACT Standards	—	I	—
RCRA Standardized Permits	—	J	—
Requirements Applicable to Hazardous Waste Injection Wells	—	—	F
Financial Responsibility for Class I	—	—	G

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Hazardous Waste Injection Wells Requirements	—	—	I
Applicable to Class V Injection Wells Requirements	—	—	I
Applicable to Class V Injection Wells Requirements	—	—	J

c) Relation to Other Requirements ~~other requirements.~~

- 1) Permit application forms. An applicant for a RCRA or UIC permit or a person seeking interim status under RCRA must submit its application on an Agency permit application form when such is available.
- 2) Technical regulations. Each of the two permit programs that are covered in these permit regulations has separate additional regulations that contain technical requirements for that program. These separate regulations are used by the Agency to determine the requirements that must be placed in any permit that it issues. These separate regulations are located as follows:

RCRA	35 Ill. Adm. Code <u>724 and 726</u> 720 through 728, 733, and 739
UIC	35 Ill. Adm. Code 730 and 738

BOARD NOTE: Derived in significant part from 40 CFR 144.1 and 270.1 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.103 Trade Secret or Non-Disclosable Information Submitted to the Agency or Board

- a) In accordance with Section 7 of the Environmental Protection Act ~~[415 ILCS 5/7]~~, and as federally required by 40 CFR 2, a person submitting certain information to the Agency or Board pursuant to this Part and 35 Ill. Adm. Code 703 through 705 may claim that information as trade secret or non-disclosable information. Any such claim of trade secret or non-disclosable information must be asserted at the time of submission in the manner prescribed by 35 Ill. Adm.

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Code 130. If no claim is made at the time of submission, the Agency or Board may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with 35 Ill. Adm. Code 130 and Board and Agency procedures.

- b) Claims of trade secret or non-disclosable information for the following information will be denied:
- 1) The name and address of any permit applicant or permittee;
 - 2) The identity of substances being placed or to be placed in landfills or hazardous waste treatment, storage, or disposal facilities; and
 - 3) For UIC permits, information that deals with the existence, absence, or level of contaminants in drinking water.

BOARD NOTE: Derived from 40 CFR 144.5 and 270.12 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.105 Rulemaking

- a) Identical-in-Substance Regulations-
- 1) Generally applicable federal rules. Twice each year, the Board reserves identical-in-substance rulemaking dockets pursuant to Sections 7.2, 13(c), and 22.4(a) of the Act [~~415 ILCS 5/7.2, 13(e), and 22.4(a)~~]. The Board's intent is generally to include all federal RCRA or UIC amendments that occurred in the appropriate of the prior concluded update periods of January 1 through June 30 or July 1 through December 31. The Board reviews the federal actions that occurred in the period of interest and includes those that require Board action in the reserved docket. The Board itself initiates any necessary amendments to the RCRA or UIC program, so no person needs to file a rulemaking proposal for the included amendments. The Board routinely excludes from these identical-in-substance proposals those federal amendments that pertain to facilities or activities that exist or occur outside Illinois.
 - 2) The Board does not generally include site-specific federal amendments in an identical-in-substance rulemaking proposal without a request from a member of the regulated community. The owner or operator of a facility subject to a site-specific federal rule that wishes the Board to incorporate

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that rule into the Illinois regulations should submit a request to the Clerk of the Board for inclusion of that site-specific rule in a future identical-in-substance rulemaking proposal. Any person wishing such inclusion may petition the Board to adopt appropriate amendments to the Illinois RCRA or UIC program pursuant to Sections 7.2 and 13(c) or 22.4(a) of the Act. The petition must take the form of a proposal for rulemaking pursuant to 35 Ill. Adm. Code 101 and 102. The proposal must include a listing of all amendments of interest to the petitioner together with copies of the Federal Register notices on which the amendments are to be based.

- b) Other Regulations. With respect to the Illinois RCRA or UIC program or permit issuance, any person may petition the Board to adopt amendments or additional regulations that are not identical in substance to federal regulations. Such proposal must conform to 35 Ill. Adm. Code 101 and 102 and Sections 13(d), 22.4(b) and (c), and Title VII of the Act [~~415 ILCS 5/13(d), 22.4(b), and (c) and Title VII~~].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.106 Adoption of Agency Criteria

- a) The Agency may, in its sole discretion, adopt criteria that will give guidance to the public as to what it will approve in RCRA and UIC permit applications and as to what conditions it will impose in permit issuance. The statutory authority for the Agency adopting such criteria is the Agency's authority to issue permits pursuant to Sections 4 and 39 of the Act [~~415 ILCS 5/4 and 39~~], and the requirement of the Administrative Procedure Act [5 ILCS 100] that agencies codify as rules those policies or interpretations of general applicability that affect persons outside the Agency.
- b) With respect to review of permit applications and establishment of permit conditions, the Agency must adopt as criteria any policies and interpretations of general applicability that affect persons outside the Agency.
- c) Any criteria that the Agency adopts must include each of the following:
 - 1) Clear references to related provisions of the Act and Board regulations;
 - 2) A statement that the criteria are not Board regulations;
 - 3) A statement that the criteria apply only to review of permit applications and establishment of conditions; and

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- 4) Procedures to be followed if an applicant wishes to deviate from Agency criteria.
- d) For purposes of permit issuance, proof of compliance with Agency-adopted criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. However, persons other than the Agency may challenge Agency-adopted criteria as applied in the context of permit issuance.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.107 Permit Appeals and Review of Agency Determinations

Unless the contrary intention is indicated, all actions taken by the Agency pursuant to 35 Ill. Adm. Code 702 through 704, 721 through 728, 730, 733, 738, or 739 are to be done as part of an original permit application or a proceeding for modification of an issued permit. Such actions are subject to the procedural requirements of 35 Ill. Adm. Code 705.

- a) Any final Agency action on an original permit application, a proceeding for modification of an issued permit, or any action for review of a final Agency determination required by these regulations may be appealed to the Board pursuant to Title X of the Environmental Protection Act [415 ILCS 5/Title X] and 35 Ill. Adm. Code 105 and 705.212.
- b) Other actions that are not required by these regulations, whether undertaken by the Agency gratuitously or pursuant to a statutory authorization, such as one taken to enforce a bond, insurance policy, or similar instrument of a contractual nature or one intended to guide a regulated person in seeking compliance with the regulations, may not be permit modifications reviewable by the Board. The affected person may seek review of an Agency determination that is not a permit determination in any court of competent jurisdiction.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.108 Variances and Adjusted Standards

- a) The Agency has no authority to issue any permit that is inconsistent with Board regulations. If an applicant seeks a permit that would authorize actions that are inconsistent with Board regulations, including delayed compliance dates, the applicant should file for either of the following two forms of relief:

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- 1) A petition for a variance pursuant to Title IX of the Environmental Protection Act (Act) ~~[415 ILCS 5/Title IX]~~ and Subtitle B of 35 Ill. Adm. Code 104; or
 - 2) A petition for an adjusted standard pursuant to Section 28.2 of the Act ~~[415 ILCS 5/28.2]~~ and Subtitle D of 35 Ill. Adm. Code 104.
- b) The Agency must file a recommendation within prescribed times following the filing of a petition for a variance or adjusted standard. The recommendation must include a draft of the language the Agency proposes to include in the permit if its recommendation is accepted.
 - c) If the Board grants a variance or adjusted standard, it will order the Agency to issue or modify the permit pursuant to the variance.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.109 Enforcement Actions

Any person may file a civil complaint with the Board alleging violation of the RCRA or UIC regulations, a permit requirement, or permit conditions, pursuant to Title VIII of the Act ~~[415 ILCS 5/Title VIII]~~ and 35 Ill. Adm. Code 103.

- a) A formal complaint filed with the Board will initiate a civil enforcement action in which the complainant bears the burden of proving that the respondent committed the alleged violations.
- b) The Board will forward any informal complaint to the Agency, and the Agency must investigate the alleged violations set forth in the complaint.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.110 Definitions

The following definitions apply to 35 Ill. Adm. Code 702, 703, 704, and 705. Terms not defined in this Section have the meaning given by the appropriate act and regulations, as such are defined in this Section. When a definition applies primarily to one or more programs, those programs appear in parentheses after the defined terms.

“Act” or “Environmental Protection Act” means the Environmental Protection Act [415 ILCS 5].

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“Administrator” means the Administrator of the United States Environmental Protection Agency or an authorized representative.

“Agency” means the Illinois Environmental Protection Agency.

“Application” means the Agency forms for applying for a permit. For RCRA, application also includes the information required by the Agency pursuant to 35 Ill. Adm. Code 703.182 through 703.212 (contents of Part B of the RCRA application).

“Appropriate act and regulations” means the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) (RCRA), the federal Safe Drinking Water Act (42 USC 300f et seq.) (SDWA), or the Environmental Protection Act, whichever is applicable, and the applicable regulations promulgated under those statutes.

“Approved program or approved state” means a state or interstate program that has been approved or authorized by USEPA pursuant to 40 CFR 271 (RCRA) or section 1422 of the SDWA (42 USC 300h-1) (UIC).

“Aquifer” (RCRA and UIC) means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

“Area of review” (UIC) means the area surrounding an injection well described according to the criteria set forth in 35 Ill. Adm. Code 730.106, or in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter of a mile) or a number calculated according to the criteria set forth in 35 Ill. Adm. Code 730.106.

“Board” (RCRA and UIC) means the Illinois Pollution Control Board.

“Cesspool” (UIC) means a drywell that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

“Closure” (RCRA) means the act of securing a Hazardous waste management facility pursuant to 35 Ill. Adm. Code 724.

“Component” (RCRA) means any constituent part of a unit or any group of constituent parts of a unit that are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, or kiln thermocouple).

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“Contaminant” (UIC) means any physical, chemical, biological, or radiological substance or matter in water.

“Corrective action management unit” or “CAMU” (RCRA) means an area within a facility that is designated by the Agency pursuant to SUBPART S of 35 Ill. Adm. Code 724 for the purpose of implementing corrective action requirements pursuant to 35 Ill. Adm. Code 724.201 and RCRA section 3008(h) (42 USC 6928(h)). A CAMU must only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

“CWA” (RCRA and UIC) means the Clean Water Act (33 USC 1251 et seq.), as amended.

~~“Date of approval by USEPA of the Illinois UIC program” (UIC) means March 3, 1984.~~

“Director” (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency or the Director’s designee.

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

“Disposal facility” (RCRA) means a facility or part of a facility at which hazardous waste is intentionally placed into or on the land or water, and at which hazardous waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.

“Draft permit” (RCRA and UIC) means a document prepared pursuant to 35 Ill. Adm. Code 705.141 indicating the Agency’s tentative decision to issue, deny, modify, terminate, or reissue a permit. A notice of intent to deny a permit, as discussed in 35 Ill. Adm. Code 705.141, is a type of draft permit. A denial of a request for modification, as discussed in 35 Ill. Adm. Code 705.128, is not a draft permit. A proposed permit is not a draft permit.

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“Drywell” (UIC) means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom and sides are typically dry, except when receiving fluids.

“Drilling mud” (UIC) means a heavy suspension used in drilling an injection well, introduced down the drill pipe and through the drill bit.

“Elementary neutralization unit” (RCRA) means a device of which the following is true:

It is used for neutralizing wastes that are hazardous wastes only because they exhibit the corrosivity characteristics defined in 35 Ill. Adm. Code 721.122, or are listed in SUBPART D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in 35 Ill. Adm. Code 720.110.

“Emergency permit” (RCRA and UIC) means a RCRA or UIC permit issued in accordance with 35 Ill. Adm. Code 703.221 or 704.163, respectively.

“Environmental Protection Agency” or “EPA” or “USEPA” (RCRA and UIC) means the United States Environmental Protection Agency.

“Exempted aquifer” (UIC) means an aquifer or its portion that meets the criteria in the definition of “underground source of drinking water” but which has been exempted according to the procedures in 35 Ill. Adm. Code 702.105, 704.104, and 704.123(b).

“Existing hazardous waste management (HWM) facility” or “existing facility” (RCRA) means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if the following occurs:

The owner or operator has obtained the federal, State, and local approvals or permits necessary to begin physical construction; and

Either of the following has transpired:

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

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The owner or operator has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial loss and which are to be completed within a reasonable time.

“Existing injection well” (UIC) means an injection well that is not a new injection well.

“Facility mailing list” (RCRA) means the mailing list for a facility maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163(a).

“Facility or activity” (RCRA and UIC) means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to regulations under the Illinois RCRA or UIC program.

“Federal, State, and local approvals or permits necessary to begin physical construction” (RCRA) means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

~~“Final authorization” (RCRA) means January 31, 1986, the date of approval by USEPA of the Illinois Hazardous Waste Management Program that has met the requirements of section 3006(b) of RCRA (42 USC 6926(b)) and the applicable requirements of SUBPART A of 40 CFR 271.~~

“Fluid” (UIC) means any material or substance that flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

“Formation” (UIC) means a body of rock characterized by a degree of lithologic homogeneity that is prevailing, but not necessarily, tabular and is mappable on the earth’s surface or traceable in the subsurface.

“Formation fluid” (UIC) means fluid present in a formation under natural conditions, as opposed to introduced fluids, such as drilling mud.

“Functionally equivalent component” (RCRA) means a component that performs the same function or measurement and which meets or exceeds the performance specifications of another component.

“Generator” (RCRA) means any person, by site location, whose act or process produces hazardous waste.

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“Geologic sequestration” means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in a subsurface geologic formation. This term does not apply to carbon dioxide capture or transport.

“Groundwater” (RCRA and UIC) means a water below the land surface in a zone of saturation.

“Hazardous waste” (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Hazardous waste management facility” or “HWM facility” (RCRA) means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

“HWM facility” (RCRA) means hazardous waste management facility.

“Improved sinkhole” (UIC) means a naturally occurring karst depression or other natural crevice that is found in volcanic terrain and other geologic settings that have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

“Injection well” (RCRA and UIC) means a well into which fluids are being injected.

“Injection zone” (UIC) means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

“In operation” (RCRA) means a facility that is treating, storing, or disposing of hazardous waste.

~~“Interim authorization” (RCRA) means May 17, 1982, the date of approval by USEPA of the Illinois hazardous waste management program that has met the requirements of section 3006(g)(2) of RCRA (42 USC 6926(g)(2)) and applicable requirements of 40 CFR 271.~~

“Interstate agency” means an agency of two or more states established by or under an agreement or compact approved by the Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the appropriate act and regulations.

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“Major facility” means any RCRA or UIC facility or activity classified as such by the Regional Administrator or the Agency.

“Manifest” (RCRA and UIC) means the shipping document originated and signed by the generator that contains the information required by SUBPART B of 35 Ill. Adm. Code 722.

“National Pollutant Discharge Elimination System” means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements pursuant to Section 12(f) of the Environmental Protection Act and SUBPART A of 35 Ill. Adm. Code 309 and 35 Ill. Adm. Code 310. The term includes an approved program.

“New HWM facility” (RCRA) means a hazardous waste management facility that began operation or for which construction commenced after November 19, 1980.

“New injection well” (UIC) means a well that began injection after March 3, 1984, the date of USEPA approval of the UIC program for the State of Illinois. BOARD NOTE: See 40 CFR 147.700 (2017) ~~(2011)~~ and 49 Fed. Reg. 3991 (Feb. 1, 1984).

“Off-site” (RCRA) means any site that is not on-site.

“On-site” (RCRA) means on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the rights-of-way. Non-contiguous properties owned by the same person, but connected by a right-of-way that the person controls and to which the public does not have access, is also considered on-site property.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the RCRA or UIC program.

“Permit” means an authorization, license, or equivalent control document issued to implement this Part and 35 Ill. Adm. Code 703, 704, and 705. “Permit” includes RCRA permit by rule (35 Ill. Adm. Code 703.141), RCRA standardized permit (35 Ill. Adm. Code 703.238), UIC area permit (35 Ill. Adm. Code 704.162), and RCRA or UIC “Emergency Permit” (35 Ill. Adm. Code 703.221 and 704.163). “Permit” does not include RCRA interim status (35 Ill. Adm. Code 703.153 through 703.157), UIC authorization by rule (SUBPART C of 35 Ill.

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Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency, or assigns.

“Physical construction” (RCRA) means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept hazardous waste.

“Plugging” (UIC) means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

“Point of injection” means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box—the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

“POTW” means publicly owned treatment works.

“Project” (UIC) means a group of wells in a single operation.

“Publicly owned treatment works” or “POTW” is as defined in 35 Ill. Adm. Code 310.

“Radioactive waste” (UIC) means any waste that contains radioactive material in concentrations that exceed those listed in table II, column 2 in appendix B to 10 CFR 20, incorporated by reference in 35 Ill. Adm. Code 720.111.

“RCRA” (RCRA) means the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.). For the purposes of regulation pursuant to 35 Ill. Adm. Code 700 through 705, 720 through 728, 733, 738, and 739, “RCRA” refers only to RCRA Subtitle C. This does not include the RCRA Subtitle D (municipal solid waste landfill) regulations, found in 35 Ill. Adm. Code 810 through 815, and the RCRA Subtitle I (underground storage tank) regulations found in 35 Ill. Adm. Code 731 and 732.

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“RCRA permit” (RCRA) means a permit required pursuant to Section 21(f) of the Act [~~415 ILCS 5/21(f)~~].

“RCRA standardized permit” (RCRA) means a RCRA permit issued pursuant to SUBPART J of 35 Ill. Adm. Code 703 and SUBPART G of 35 Ill. Adm. Code 705 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued for all RCRA standardized permits and a supplemental portion issued at the discretion of the Agency.

“Regional Administrator” (RCRA and UIC) means the Regional Administrator of the USEPA Region in which the facility is located or the Regional Administrator’s designee.

BOARD NOTE: Illinois is in USEPA Region 5.

“Remedial action plan” or “RAP” (RCRA) means a special form of RCRA permit that a facility owner or operator may obtain pursuant to SUBPART H of 35 Ill. Adm. Code 703, instead of a RCRA permit issued pursuant to this Part and 35 Ill. Adm. Code 703, to authorize the treatment, storage, or disposal of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site.

“Sanitary waste” (UIC) means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

“Schedule of compliance” (RCRA and UIC) means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate act and regulations.

“SDWA” (UIC) means the Safe Drinking Water Act (42 USC 300f et seq.).

“Septic system” (UIC) means a well, as defined in this Section, that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

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“Site” (RCRA and UIC) means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

“SIC code” (RCRA and UIC) means “Standard Industrial Classification code.” This is the code assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication, “Standard Industrial Classification Manual,” incorporated by reference in 35 Ill. Adm. Code 720.111.

“State” (RCRA and UIC) means the State of Illinois.

“State Director” (RCRA and UIC) means the Director of the Illinois Environmental Protection Agency.

“State/USEPA agreement” (RCRA and UIC) means an agreement between the Regional Administrator and the State that coordinates USEPA and State activities, responsibilities, and programs, including those under the RCRA and SDWA.

“Storage” (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“Stratum” (plural “strata”) (UIC) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

“Subsurface fluid distribution system” (UIC) means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

“Total dissolved solids” (UIC) means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR 136.3 (Identification of Test Procedures; the method for filterable residue), incorporated by reference in 35 Ill. Adm. Code 720.111.

“Transfer facility” (RCRA) means any transportation related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous wastes are held during the normal course of transportation.

“Transferee” (UIC) means the owner or operator receiving ownership or operational control of the well.

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“Transferor” (UIC) means the owner or operator transferring ownership or operational control of the well.

“Transporter” (RCRA) means a person engaged in the off-site transportation of “hazardous waste” by air, rail, highway, or water.

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

“UIC” (UIC) means the Underground Injection Control program.

“Underground injection” (UIC) means a well injection.

“Underground source of drinking water” or “USDW” (RCRA and UIC) means an aquifer or its portion that is not an exempted aquifer and of which either of the following is true:

It supplies any public water system; or

It contains a sufficient quantity of groundwater to supply a public water system; and

It currently supplies drinking water for human consumption; or

It contains less than 10,000 mg/ℓ total dissolved solids.

“USDW” (RCRA and UIC) means an underground source of drinking water.

“Wastewater treatment unit” (RCRA) means a device of which the following is true:

It is part of a wastewater treatment facility that is subject to regulation pursuant to SUBPART A of 35 Ill. Adm. Code 309 or 35 Ill. Adm. Code 310; and

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

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defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in 35 Ill. Adm. Code 720.110.

“Well” (UIC) means a bored, drilled, or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension; a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

“Well injection” (UIC) means the subsurface emplacement of fluids through a well.

BOARD NOTE: Derived from 40 CFR 124.2, 144.3, and 270.2 (2017)-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATIONS

Section 702.120 Permit Application

- a) Applying for a UIC Permit-~~permit~~. Any person that is required to have a permit (including new applicants and permittees with expiring permits) must complete, sign, and submit an application to the Agency as described in this Section and in 35 Ill. Adm. Code 704.161 (UIC). Any person that is currently authorized with UIC authorization by rule (SUBPART C of 35 Ill. Adm. Code 704) must apply for a permit when required to do so by the Agency. The procedure for application, issuance, and administration of an emergency permit is found exclusively in 35 Ill. Adm. Code 704.163 (UIC).
- b) Applying for a RCRA Permit-~~permit~~. The following information outlines how to obtain a permit and where to find requirements for specific permits:
 - 1) If the facility is covered by RCRA permits by rule (35 Ill. Adm. Code 703.141), the owner or operator needs not apply for a permit.
 - 2) If the facility owner or operator currently has interim status pursuant to RCRA (SUBPART C of 35 Ill. Adm. Code 703), it must apply for a permit when required by the Agency.

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- 3) If the facility owner or operator is required to have a permit (including new applicants and permittees with expiring permits), it must complete, sign, and submit an application to the Agency, as described in this Section; in Sections 702.121 through 702.124; and in 35 Ill. Adm. Code 703.125, 703.126, 703.150 through 703.157, 703.186, and 703.188.
- 4) If the facility owner or operator is seeking an emergency permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.220.
- 5) If the facility owner or operator is seeking a research, development, and demonstration permit, the procedures for application, issuance, and administration are found exclusively in 35 Ill. Adm. Code 703.231.
- 6) If the facility owner or operator is seeking a RCRA standardized permit, the procedures for application and issuance are found in SUBPART G of 35 Ill. Adm. Code 705 and SUBPART J of 35 Ill. Adm. Code 703.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 144.31(a) ~~(2017)-(2010)~~, and subsection (b) ~~of this Section~~ is derived from 40 CFR 270.10(a) ~~(2017)-(2010)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.123 Information Requirements

An applicant for a RCRA or UIC Class I, III, or V permit must provide the following information to the Agency, using the application form provided by the Agency (additional information required of applicants is set forth in SUBPART D of 35 Ill. Adm. Code 703 (RCRA) and 35 Ill. Adm. Code 704.161 (UIC)). An applicant for a Class VI injection well permit must follow the criteria provided in 35 Ill. Adm. Code 730.182.

- a) The activities conducted by the applicant that require it to obtain a permit under RCRA or UIC.
- b) The name, mailing address, and location of the facility for which the application is submitted.
- c) Up to four SIC codes that best reflect the principal products or services provided by the facility.
- d) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.

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- e) This subsection (e) corresponds with 40 CFR 144.31(e)(5) and 270.13(f), relating to facilities on Indian lands. The Board has replaced the corresponding federal text with this statement to maintain structural parity with the corresponding federal rules.
- f) A listing of all permits or construction approvals received or applied for under any of the following programs:
 - 1) The hazardous waste management program under RCRA, this Part, and 35 Ill. Adm. Code 703;
 - 2) The UIC program under SDWA, this Part, and 35 Ill. Adm. Code 704;
 - 3) The National Pollutant Discharge Elimination System (NPDES) program under the federal CWA (33 USC 1251 et seq.) and 35 Ill. Adm. Code 309;
 - 4) The Prevention of Significant Deterioration (PSD) program under the federal Clean Air Act (42 USC 7401 et seq.);
 - 5) The nonattainment program under the federal Clean Air Act;
 - 6) The National Emission Standards for Hazardous Pollutants (NESHAPs) preconstruction approval under the federal Clean Air Act;
 - 7) Any ocean dumping permits under the federal Marine Protection Research and Sanctuaries Act (33 UCS 1401 et seq.);
 - 8) Any dredge or fill permits under Section 404 of CWA (33 USC 1344); and
 - 9) Any other relevant environmental permits, including any State-issued permits.
- g) A topographic map (or other map if a topographic map is unavailable) extending 1609 meters (one mile) beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or which are otherwise known to the applicant within 402 meters (one-quarter mile) of the facility property boundary.
- h) A brief description of the nature of the business.

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BOARD NOTE: Derived from 40 CFR 144.31(e)(1) through (e)(8); 270.10(d); and 270.13(a) through (d), (f), and (k) through (m) (2017) (2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.125 Continuation of Expiring Permits

- a) The conditions of an expired permit continue in force until the effective date of a new permit (see 35 Ill. Adm. Code 705.201) if both of the following conditions are fulfilled:
 - 1) The permittee has submitted a timely application pursuant to 35 Ill. Adm. Code 703.181 (RCRA) or 704.161 (UIC) that is a complete (pursuant to Section 702.122) application for a new permit; and
 - 2) The Agency, through no fault of the permittee, does not issue a new permit with an effective date pursuant to 35 Ill. Adm. Code 705.201 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).
- b) Effect. Permits continued pursuant to this Section remain fully effective and enforceable.
- c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Agency may choose to do any or all of the following:
 - 1) Initiate enforcement action based upon the permit that has been continued;
 - 2) Issue a notice of intent to deny the new permit pursuant to 35 Ill. Adm. Code 705.141. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
 - 3) Issue a new permit pursuant to 35 Ill. Adm. Code 705 with appropriate conditions; or
 - 4) Take other actions authorized by the Environmental Protection Act [415 ILCS 5], or regulations adopted thereunder.
- d) This subsection (d) corresponds with 40 CFR 144.37(d) and 270.51(d), which pertain to continuation of USEPA-issued permits until disposition of a permit

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application filed with an authorized state. A corresponding provision is unnecessary in the Illinois regulations. This statement maintains structural consistency with the corresponding federal rules.

- e) RCRA Standardized Permits ~~standardized permits.~~
- 1) The conditions of an owner's or operator's expired RCRA standardized permit continue until the effective date of its new permit (see 35 Ill. Adm. Code 705.201) if all of the following conditions are fulfilled:
 - A) If the Agency is the permit-issuing authority;
 - B) If the owner or operator has submitted a timely and complete Notice of Intent pursuant to 35 Ill. Adm. Code 705.301(a)(2) requesting coverage under a RCRA standardized permit; and
 - C) If the Agency, through no fault of the owner or operator, does not issue the permit before the previous permit expires (for example, where it is impractical to make the permit effective by that date because of time or resource constraints).
 - 2) In some instances, the Agency may notify the owner or operator that it is not eligible for a RCRA standardized permit (see 35 Ill. Adm. Code 705.302(c)). In such an instance, the conditions of the owner's or operator's expired permit will continue if the owner or operator submits the information specified in subsection (a)(1) ~~of this Section~~ (that is, a complete application for a new permit) within 60 days after it receives an Agency notification that the owner or operator is not eligible for a RCRA standardized permit.

BOARD NOTE: Derived from 40 CFR 144.37 and 270.51 ~~(2017)-(2005)~~, as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.126 Signatories to Permit Applications and Reports

- a) Applications. A permit application must be signed as follows:
 - 1) For a corporation: a permit application must be signed by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means either of the following persons:

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- A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person that performs similar policy or decision-making functions for the corporation; or
- B) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

BOARD NOTE: The Board does not require specific assignments or delegations of authority to responsible corporate officers identified in subsection (a)(1)(A) ~~of this Section~~. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications, unless the corporation has notified the Agency to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions pursuant to subsection (a)(1)(B) ~~of this Section~~, rather than to specific individuals.

- 2) For a partnership or sole proprietorship: a permit application must be signed by a general partner or the proprietor, respectively; or
 - 3) For a municipality, State, federal, or other public agency: a permit application must be signed by either a principal executive officer or ranking elected official. For purposes of this Section, a principal executive officer of a federal agency includes either of the following persons:
 - A) The chief executive officer of the agency, or
 - B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA).
- b) Reports. All reports required by permits or other information requested by the Agency must be signed by a person described in subsection (a) ~~of this Section~~, or by a duly authorized representative of that person. A person is a duly authorized representative only if each of the following conditions are fulfilled:

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- 1) The authorization is made in writing by a person described in subsection (a) ~~of this Section~~;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - 3) The written authorization is submitted to the Agency.
- c) Changes to ~~Authorization~~ authorization. If an authorization pursuant to subsection (b) ~~of this Section~~ is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (b) must be submitted to the Agency prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d) Certification-
- 1) Any person signing a document pursuant to subsection (a) or (b) ~~of this Section~~ must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons that manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
 - 2) ~~Alternative Owner Certification~~ owner certification. For remedial action plans (RAPs) pursuant to SUBPART H ~~of this Part~~, if the operator certifies according to subsection (d)(1) ~~of this Section~~, then the owner may choose to make the following certification instead of the certification in subsection (d)(1) ~~of this Section~~:

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Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons that manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Derived from 40 CFR 144.32 and 270.11 (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: PERMIT CONDITIONS

Section 702.152 Reporting Requirements

- a) ~~Planned Changes~~ changes. The permittee must give notice to the Agency as soon as possible of any planned physical alterations or additions to the permitted facility.
- b) Anticipated noncompliance. The permittee must give advance notice to the Agency of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. For RCRA, see also 35 Ill. Adm. Code 703.247.
- c) Transfers. This permit is not transferable to any person, except after notice to the Agency. The Agency may require modification of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate Act. (See Sections 702.182 and 702.183, in some cases modification is mandatory.)
- d) ~~Monitoring Reports~~ reports. Monitoring results must be reported at the intervals specified in the permit.
- e) ~~Compliance Schedules~~ schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit must be submitted no later than specified in Section 702.162.
- f) Twenty-four hour reporting as required in 35 Ill. Adm. Code 703.245 or 704.181(d).

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- g) Other ~~Noncompliance~~ ~~none compliance~~. The permittee must report all instances of noncompliance not reported pursuant to subsections (d), (e), and (f) ~~of this Section~~ at the time monitoring reports are submitted. The reports must contain the information referenced in subsection (f) ~~of this Section~~.
- h) Other ~~Information~~ ~~information~~. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Agency, it must promptly submit such facts or information.

BOARD NOTE: Derived from 40 CFR 144.51(l) and 270.30(l) ~~(2017)~~ ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.162 Schedules of Compliance

The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate act and regulations.

- a) Time for ~~Compliance~~ ~~compliance~~. Any schedules of compliance pursuant to this Section must require compliance as soon as possible. For UIC, in addition, schedules of compliance must require compliance not later than three years after the effective date of the permit.
- b) Interim ~~Dates~~ ~~dates~~. If a permit establishes a schedule of compliance that exceeds one year from the date of permit issuance, the schedule must set forth interim requirements and the dates for their achievement.
 - 1) The time between interim dates must not exceed one year.
 - 2) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit must specify interim dates for the submission of reports of progress toward compliance of the interim requirements and indicate a projected completion date.
- c) Reporting. A RCRA permit must be written to require that no later than 14 days following such interim date and the final date of compliance, the permittee must notify the Agency in writing of its compliance or noncompliance with the interim or final requirements. A UIC permit must be written to require that, if subsection (a) ~~of this Section~~ is applicable, progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

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- d) The Agency may not permit a schedule of compliance involving violation of regulations adopted by the Board unless the permittee has been granted a variance. To avoid delay, an applicant seeking a schedule of compliance should file a variance petition pursuant to SUBPART B of 35 Ill. Adm. Code 104 at the same time the permit application is filed.

BOARD NOTE: Derived from 40 CFR 144.53(a) and 270.33(a) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.163 Alternative Schedules of Compliance

A RCRA or UIC permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment or storage HWM facilities, by closing pursuant to applicable requirements; for disposal HWM facilities, by closing and conducting post-closure care pursuant to applicable requirements; or, for UIC wells, by plugging and abandonment), rather than continuing to operate and meet permit requirements as follows:

- a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued, either of the following must occur:
- 1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
 - 2) The permittee must cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
- b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit must contain a schedule leading to termination that will ensure timely compliance with applicable requirements.
- c) If the permittee is undecided whether to cease conducting regulated activities, the Agency may issue or modify a permit to contain two alternative schedules, as follows:
- 1) Both schedules must contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in

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- a timely manner if the decision is to continue conducting regulated activities;
- 2) One schedule must lead to timely compliance with applicable requirements;
 - 3) The second schedule must lead to cessation of regulated activities by a date that will ensure timely compliance with applicable requirements.
 - 4) Each permit containing two alternative schedules must include a requirement that, after the permittee has made a final decision pursuant to subsection (c)(1) ~~of this Section~~, it must follow the schedule leading to compliance, if the decision is to continue conducting regulated activities, or follow the schedule leading to termination, if the decision is to cease conducting regulated activities.
- d) The applicant's or permittee's decision to cease conducting regulated activities must be evidenced by a firm public commitment satisfactory to the Agency, such as a written resolution of the board of directors of a corporation.

BOARD NOTE: Derived from 40 CFR 144.53(b) and 270.33(b) (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: ISSUED PERMITS

Section 702.181 Effect of a Permit

- a) The existence of a RCRA or UIC permit does not constitute a defense to a violation of the Environmental Protection Act or this Subtitle G, except for prohibitions against development, modification, or operation without a permit. A permit may be modified or reissued during its term for cause, as set forth in SUBPART G of 35 Ill. Adm. Code 703 (RCRA) or SUBPART H of 35 Ill. Adm. Code 704 (UIC) and Section 702.186, or a permit may be modified upon the request of the permittee, as provided by 35 Ill. Adm. Code 703.280 through 703.283.

BOARD NOTE: 40 CFR 270.4(a) differs from this subsection (a) in two significant aspects: (1) 40 CFR 270.4(a)(1) states that compliance with the permit is compliance with federal law; and (2) 40 CFR 270.4(a)(1)(i) through (a)(1)(iv) enumerate exceptions when compliance with the permit can violate federal law. The exceptions under which compliance with a permit can violate federal law are

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the following intervening events: (1) new or amended statutory requirements; (2) new or amended 40 CFR 268 land disposal restrictions; (3) the adoption of the 40 CFR 264 leak detection requirements; and (4) the adoption of the air emissions limitations of subparts AA, BB, and CC of 40 CFR 265. By not codifying the federal exceptions, since they are not necessary in the Illinois program to accomplish the intended purpose, the Board does not intend to imply that compliance with a RCRA permit obviates immediate compliance with any of the events included in the federal exceptions.

- b) The issuance of a permit does not convey property rights of any sort, nor does issuance convey any exclusive privilege.
- c) The issuance of a permit does not authorize injury to persons or property or invasion of other private rights, nor does issuance authorize any infringement of State or local law or regulations, except as noted in subsection (a) ~~of this Section~~.

BOARD NOTE: Derived from 40 CFR 144.35 and 40 CFR 270.4 (2017) ~~(2010)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 702.186 Revocation

The Board will revoke a permit during its term in accordance with Title VIII of the Environmental Protection Act ~~[415 ILCS 5/Title VIII]~~ for the following causes:

- a) The permittee's violation of the Environmental Protection Act ~~[415 ILCS 5]~~ or regulations adopted thereunder;
- b) Noncompliance by the permittee with any condition of the permit;
- c) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, reissuance, or revocation.

BOARD NOTE: Derived from 40 CFR 270.43 and 144.40 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: RCRA Permit Program
- 2) Code citation: 35 Ill. Adm. Code 703
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
703.120	Amendment
703.123	Amendment
703.150	Amendment
703.151	Amendment
703.157	Amendment
703.161	Amendment
703.186	Amendment
703.189	Amendment
703.205	Amendment
703.208	Amendment
703.210	Amendment
703.211	Amendment
703.221	Amendment
703.223	Amendment
703.232	Amendment
703.270	Amendment
703.280	Amendment
703.282	Amendment
703.283	Amendment
703.320	Amendment
703.350	Amendment
703.352	Amendment
703.Appendix A	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

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- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 9672; June 15, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. 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).
- 11) Differences between the proposal and the final version: A table in a document entitled “Identical-in-Substance Rulemaking Addendum (Final)” that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board’s review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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 JCAR.

Since the Notices of Proposed Amendments appeared in the June 15, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.
- 15) Summary and purpose of rulemaking: The amendments to Part 703 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking

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also includes amendments to 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 703 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4(a)] provide 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

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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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620.
You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 703
RCRA PERMIT PROGRAM

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703.100	Scope and Relation to Other Parts
703.101	Purpose
703.102	Electronic Reporting
703.110	References

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703.122	Specific Inclusions in Permit Program
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703.125	Reapplying for a Permit
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SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

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703.153	Qualifying for Interim Status
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703.156	Interim Status Standards
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- 703.159 Closure by Removal
- 703.160 Procedures for Closure Determination
- 703.161 Enforceable Document for Post-Closure Care

SUBPART D: APPLICATIONS

- Section
- 703.180 Applications in General
- 703.181 Contents of Part A
- 703.182 Contents of Part B
- 703.183 General Information
- 703.184 Facility Location Information
- 703.185 Groundwater Protection Information
- 703.186 Exposure Information
- 703.187 Solid Waste Management Units
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- 703.189 Additional Information Required to Assure Compliance with MACT Standards
- 703.191 Public Participation: Pre-Application Public Notice and Meeting
- 703.192 Public Participation: Public Notice of Application
- 703.193 Public Participation: Information Repository
- 703.200 Specific Part B Application Information
- 703.201 Containers
- 703.202 Tank Systems
- 703.203 Surface Impoundments
- 703.204 Waste Piles
- 703.205 Incinerators that Burn Hazardous Waste
- 703.206 Land Treatment
- 703.207 Landfills
- 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste
- 703.209 Miscellaneous Units
- 703.210 Process Vents
- 703.211 Equipment
- 703.212 Drip Pads
- 703.213 Air Emission Controls for Tanks, Surface Impoundments, and Containers
- 703.214 Post-Closure Care Permits

SUBPART E: SPECIAL FORMS OF PERMITS

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- 703.220 Emergency Permits
- 703.221 Alternative Compliance with the Federal NESHAPS

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703.222	Incinerator Conditions Prior to Trial Burn
703.223	Incinerator Conditions During Trial Burn
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703.230	Land Treatment Demonstration
703.231	Research, Development and Demonstration Permits
703.232	Permits for Boilers and Industrial Furnaces Burning Hazardous Waste
703.234	Remedial Action Plans
703.238	RCRA Standardized Permits for Storage and Treatment Units

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703.241	Establishing Permit Conditions
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703.272	Causes for Modification or Reissuance
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703.280	Permit Modification at the Request of the Permittee
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703.301	General Information
703.302	Applying for a RAP

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- 703.303 Getting a RAP Approved
- 703.304 How a RAP May Be Modified, Reissued, or Terminated
- 703.305 Operating Under A RAP
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SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY (MACT) STANDARDS

Section

- 703.320 Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

SUBPART J: RCRA STANDARDIZED PERMITS FOR STORAGE AND
TREATMENT UNITS

Section

- 703.350 General Information About RCRA Standardized Permits
- 703.351 Applying for a RCRA Standardized Permit
- 703.352 Information That Must Be Kept at the Facility
- 703.353 Modifying a RCRA Standardized Permit

703.APPENDIX A Classification of Permit Modifications

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 R82-19 at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended

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in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11672, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18505, effective November 12, 2010; amended in R13-15 at 37 Ill. Reg. 17659, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 11271, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.120 Prohibitions in General

- a) Violation of the provisions of this SUBPART may result in an enforcement action and sanctions pursuant to Titles VIII and XII of the Environmental Protection Act [415 ILCS 5];
- b) This SUBPART B serves the following functions:
 - 1) It prohibits the conduct of hazardous waste management operations without a RCRA permit (Sections 703.121 and 703.122);
 - 2) It specifies exclusions from the permit requirement (Section 703.123);
 - 3) It sets times for the filing of applications and reapplications (Sections 703.125 and 703.126);
 - 4) It prohibits violation of the conditions of RCRA permits (Section 703.122);
- c) ~~SUBPART C of this Part~~ grants permits by rule, and sets the conditions for interim status, which allows operation of certain facilities prior to permit issuance.

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SUBPART C ~~of this Part~~ contains prohibitions applicable during the interim status period;

- d) The following definitions apply to this SUBPART B:
- 1) 35 Ill. Adm. Code 702.110; and
 - 2) 35 Ill. Adm. Code 721, the definitions of “solid waste” and “hazardous waste.”.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.123 Specific Exclusions and Exemptions from Permit Program

The following persons are among those that are not required to obtain a RCRA permit:

- a) A generator that accumulates hazardous waste on site in compliance with all of ~~on-site for less than the conditions for exemption time periods~~ provided in 35 Ill. Adm. Code 722.114 through 722.117-722.134;
- b) A farmer that disposes of hazardous waste pesticides from the farmer’s own use, as provided in 35 Ill. Adm. Code 722.170;
- c) A person that owns or operates a facility solely for the treatment, storage, or disposal of hazardous waste excluded from regulations pursuant to this Part by 35 Ill. Adm. Code 721.104 or 722.114 721.105 (VSQG small generator exemption);
- d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;
- f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) A person that adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person that adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and

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- h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through (h)(5) ~~of this Section~~. Such a handler or transporter is subject to regulation pursuant to 35 Ill. Adm. Code 733.
- 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103;
 - 3) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104; and
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105.

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) ~~(2017)-(2005)~~, as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section 703.150 Application by Existing HWM Facilities and Interim Status Qualifications

- a) The owner or operator of an existing HWM facility or of an HWM facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit Part A of the permit application to the Agency no later than the following times, whichever comes first:
- 1) Six months after the date of publication of regulations that first require the owner or operator to comply with standards in 35 Ill. Adm. Code 725 or 726; or
 - 2) Thirty days after the date the owner or operator first becomes subject to the standards in 35 Ill. Adm. Code 725 or 726; ~~or~~
 - 3) ~~For generators that generate greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treat, store or dispose of these wastes on-site, by March 24, 1987.~~
- b) In granting a variance under subsection (c) ~~, of this Section~~ the Board will consider whether there has been substantial confusion as to whether the owner or operator

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of such facilities were required to file a Part A application and whether such confusion was attributable to ambiguities in 35 Ill. Adm. Code 720, 721, or 725.

- c) The time for filing Part A of the permit application may be extended only by a Board Order entered pursuant to a variance petition.
- d) The owner or operator of an existing HWM facility may be required to submit Part B of the permit application. The Agency will notify the owner or operator that a Part B application is required, and set a date for receipt of the application, not less than six months after the date the notice is sent. The owner or operator may voluntarily submit a Part B application for all or part of the HWM facility at any time. Notwithstanding the above, any owner or operator of an existing HWM facility must submit a Part B permit application in accordance with the dates specified in Section 703.157. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit a Part B application in accordance with the dates specified in Section 703.157.
- e) Interim status may be terminated as provided in Section 703.157.

BOARD NOTE: Derived from 40 CFR 270.10(e) ~~(2017)~~-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.151 Application by New HWM Facilities

- a) Except as provided in subsection (c) ~~of this Section~~, no person may begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and having received a finally effective RCRA permit;
- b) An application for a permit for a new HWM facility (including both Part A and Part B) may be filed at any time after promulgation of standards in 35 Ill. Adm. Code 724 applicable to any TSD unit in the facility; Except as provided in subsection (c) ~~of this Section~~, all applications must be submitted to the Agency at least 180 days before physical construction is expected to commence;
- c) Notwithstanding subsection (a) ~~of this Section~~, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the Administrator of USEPA under Section (6)(e) of the federal Toxic Substances Control Act (42 USC 9601 et seq.) and any person owning or operating such a facility may, at any time after construction or ~~of~~ operation of such facility has begun, file an application for a RCRA permit to incinerate

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hazardous waste authorizing such facility to incinerate waste identified or listed under 35 Ill. Adm. Code 721.

- d) Such persons may continue physical construction of the HWM facility after the effective date of the standards applicable to it if the person submits Part B of the permit application on or before the effective date of such standards (or on some later date specified by the Agency). Such person must not operate the HWM facility without having received a finally effective RCRA permit.

BOARD NOTE: Derived from 40 CFR 270.10(f) ~~(2017)~~ (2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.157 Grounds for Termination of Interim Status

Interim status terminates when either of the following occurs:

- a) Final administrative disposition is made of a permit application, except an application for a remedial action plan (RAP) under SUBPART H ~~of this Part~~; or
- b) The owner or operator fails to furnish a requested Part B application on time, or to furnish the full information required by the Part B application, in which case the Agency must notify the owner and operator of the termination of interim status following the procedures for a notice of intent to deny a permit pursuant to 35 Ill. Adm. Code 705.
- c) Corresponding 40 CFR 270.10(e)(1)(iii) required a RCRA Part B permit application before a date long past. This statement maintains structural consistency with the federal rules. ~~For an owner or operator of a land disposal facility that has been granted interim status prior to November 8, 1984, on November 8, 1985, unless the following conditions are fulfilled:~~
- ~~1) The owner or operator submits a Part B application for a permit for such facility prior to that date; and~~
 - ~~2) The owner or operator certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.~~
- d) For an owner or operator of a land disposal facility that is in existence on the effective date of statutory or regulatory amendments under the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) that render the facility

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subject to the requirement to have a RCRA permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement, unless the owner or operator of such facility does as follows:

- 1) It submits a Part B application for a RCRA permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and
 - 2) It certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.
- e) For an owner or operator of any land disposal unit that is granted authority to operate under Section 703.155(a)(1), (a)(2), or (a)(3), on the day 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements (Subparts F and H of 35 Ill. Adm. Code 725).
- f) ~~For an owner or operator of each incinerator facility that achieved interim status prior to November 8, 1984, on November 8, 1989, unless the owner or operator of the facility submits a Part B application for a RCRA permit for an incinerator facility by November 8, 1986.~~
- g) ~~For an owner or operator of any facility (other than a land disposal or an incinerator facility) that achieved interim status prior to November 8, 1984, on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a RCRA permit for the facility by November 8, 1988.~~

BOARD NOTE: Derived from 40 CFR 270.10(e)(5)-(2002) and 270.73 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.161 Enforceable Document for Post-Closure Care

- a) An owner or operator may obtain an enforceable document containing alternative requirements for post-closure care that imposes the requirements of 35 Ill. Adm. Code 725.221. "Enforceable document containing alternative requirements" or "other enforceable document," as used in this Part and in 35 Ill. Adm. Code 724 and 725, means an order of the Board, an Agency-approved plan, or an order of a court of competent jurisdiction that meets the requirements of subsection (b) of this Section. An "enforceable document containing alternative requirements" or "other

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enforceable document,” may also mean an order of USEPA (such as pursuant to section 3008(h) of RCRA, 42 USC 6928(h), or under section 106 of the federal Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9606).

BOARD NOTE: Derived from 40 CFR 270.1(c)(7) (2017)-(2002).

- b) Any alternative requirements issued under this Section or established to satisfy the requirements of 35 Ill. Adm. Code 724.190(f), 724.210(c), 724.240(d), 725.190(f), 725.210(c), or 725.240(d) must be embodied in a document that is enforceable and subject to appropriate compliance orders and civil penalties under Titles VIII and XII of the Act-[415-ILCS 5].

BOARD NOTE: Derived from 40 CFR 271.16(e) (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATIONS

Section 703.186 Exposure Information

Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address the following:

- ~~a) Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address the following:~~
- a1) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;
- b2) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subsection (a)(1)-of this Section; and

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- ~~c3)~~ The potential magnitude and nature of the human exposure resulting from such releases.
- ~~b)~~ ~~By August 8, 1985, an owner or operator of a landfill or a surface impoundment that had already submitted a Part B application must have submitted the exposure information required in subsection (a) of this Section.~~

BOARD NOTE: Derived from 40 CFR 270.10(j) ~~(2017)~~-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.189 Additional Information Required to Assure Compliance with MACT Standards

If the Agency determines, based on one or more of the factors listed in subsection (a) ~~of this Section~~ that compliance with the standards of SUBPART EEE of 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111, alone may not adequately protect human health and the environment, the Agency must require the additional information or assessments necessary to determine whether additional controls are necessary to ensure adequate protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health or the environment resulting from both direct and indirect exposure pathways. The Agency may also require a permittee or applicant to provide information necessary to determine whether such an assessment should be required.

- a) The Agency must ~~shall~~ base the evaluation of whether compliance with the standards of SUBPART EEE of 40 CFR 63, incorporated by reference in 35 Ill. Adm. Code 720.111, alone adequately protects human health and the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:
- 1) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;
 - 2) The identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;
 - 3) The identities and quantities of non-dioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on

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known toxicities (confirmation of which should be made through emissions testing);

- 4) The identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;
 - 5) The presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;
 - 6) The volume and types of wastes, for example wastes containing highly toxic constituents;
 - 7) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;
 - 8) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and
 - 9) Such other factors as may be appropriate.
- b) This subsection (b) corresponds with 40 CFR 270.10(l)(b), which USEPA has marked "Reserved.". This statement maintains structural consistency with the corresponding federal rules.

BOARD NOTE: Derived from 40 CFR 270.10(l) (2017), as added at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.205 Incinerators that Burn Hazardous Waste

For a facility that incinerates hazardous waste, except as 35 Ill. Adm. Code 724.440 and subsection (e) of this Section provide otherwise, the applicant must fulfill the requirements of subsection (a), (b), or (c) of this Section in completing the Part B application.

- a) When seeking exemption pursuant to 35 Ill. Adm. Code 724.440(b) or (c) (ignitable, corrosive, or reactive wastes only), the applicant must fulfill the following requirements:

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- 1) Documentation that the waste is listed as a hazardous waste in SUBPART D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;
 - 2) Documentation that the waste is listed as a hazardous waste in SUBPART D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4) and (a)(5) and will not be burned when other hazardous wastes are present in the combustion zone;
 - 3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability or corrosivity, or both, as determined by the tests for characteristics of hazardous wastes pursuant to SUBPART C of 35 Ill. Adm. Code 721; or
 - 4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 35 Ill. Adm. Code 721.123(a)(1) through (a)(3) or (a)(6) through (a)(8), and that it will not be burned when other hazardous wastes are present in the combustion zone.
- b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222 through 703.224.
- c) In lieu of a trial burn, the applicant may submit the following information:
- 1) An analysis of each waste or mixture of wastes to be burned including the following:
 - A) Heat value of the waste in the form and composition in which it will be burned;
 - B) Viscosity (if applicable) or description of physical form of the waste;
 - C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical methods;

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- D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the appropriate analytical methods; and
- E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;

BOARD NOTE: The federal regulations do not themselves define the phrase "appropriate analytical methods," but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- 2) A detailed engineering description of the incinerator, including the following:
 - A) Manufacturer's name and model number of incinerator;
 - B) Type of incinerator;
 - C) Linear dimension of incinerator unit including cross sectional area of combustion chamber;
 - D) Description of auxiliary fuel system (type/feed);
 - E) Capacity of prime mover;

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- F) Description of automatic waste feed cutoff systems;
 - G) Stack gas monitoring and pollution control monitoring system;
 - H) Nozzle and burner design;
 - I) Construction materials; and
 - J) Location and description of temperature, pressure and flow indicating devices and control devices;
- 3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in subsection (c)(1) ~~of this Section~~. This analysis should specify the POHCs that the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;
- 4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;
- 5) A description of the results submitted from any previously conducted trial burns, including the following:
- A) Sampling and analysis techniques used to calculate performance standards in 35 Ill. Adm. Code 724.443;
 - B) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement); and
 - C) The certification and results required by subsection (b) ~~of this Section~~;
- 6) The expected incinerator operation information to demonstrate compliance with 35 Ill. Adm. Code 724.443 and 724.445, including the following:
- A) Expected carbon monoxide (CO) level in the stack exhaust gas;
 - B) Waste feed rate;

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- C) Combustion zone temperature;
 - D) Indication of combustion gas velocity;
 - E) Expected stack gas volume, flow rate, and temperature;
 - F) Computed residence time for waste in the combustion zone;
 - G) Expected hydrochloric acid removal efficiency;
 - H) Expected fugitive emissions and their control procedures; and
 - I) Proposed waste feed cut-off limits based on the identified significant operating parameters;
- 7) The Agency may, pursuant to 35 Ill. Adm. Code 705.122, request such additional information as may be necessary for the Agency to determine whether the incinerator meets the requirements of SUBPART O of 35 Ill. Adm. Code 724 and what conditions are required by that SUBPART and Section 39(d) of the Environmental Protection Act [~~415 ILCS 5/39(d)~~]; and
- 8) Waste analysis data, including that submitted in subsection (c)(1) ~~of this Section~~, sufficient to allow the Agency to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required.
- d) The Agency must approve a permit application without a trial burn if it finds the following:
- 1) The wastes are sufficiently similar; and
 - 2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (pursuant to 35 Ill. Adm. Code 724.445) operating conditions that will ensure that the performance standards in 35 Ill. Adm. Code 724.443 will be met by the incinerator.
- e) When the owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements ~~after October 12, 2005~~, or when the owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in SUBPART EEE

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of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance pursuant to 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of SUBPART EEE of 40 CFR 63), this Section does not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

BOARD NOTE: Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of SUBPART EEE of 40 CFR 63.

BOARD NOTE: Derived from 40 CFR 270.19 (2017) ~~(2005)~~, as amended at 70 Fed. Reg. 59402 ~~(Oct. 12, 2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements ~~after October 12, 2005~~, or when the owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in SUBPART EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance pursuant to 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of SUBPART EEE of 40 CFR 63), this Section does not apply. This Section applies, however, if the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury

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metals; or if the Agency determines that certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

- a) Trial Burns~~burns~~.
- 1) General. Except as provided below, an owner or operator that is subject to the standards to control organic emissions provided by 35 Ill. Adm. Code 726.204, standards to control particulate matter provided by 35 Ill. Adm. Code 726.205, standards to control metals emissions provided by 35 Ill. Adm. Code 726.206, or standards to control hydrogen chloride (HCl) or chlorine gas emissions provided by 35 Ill. Adm. Code 726.207 must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.232.
 - A) Pursuant to subsections (a)(2) through (a)(5)~~of this Section~~ and 35 Ill. Adm. Code 726.204 through 726.207, the Agency may waive a trial burn to demonstrate conformance with a particular emission standard; and
 - B) The owner or operator may submit data in lieu of a trial burn, as prescribed in subsection (a)(6)~~of this Section~~.
 - 2) Waiver of Trial Burn~~trial burn~~ of DRE (Destruction Removal Efficiency)~~(destruction removal efficiency)~~.
 - A) Boilers Operated~~operated under Special Operating Requirements~~ special operating requirements. When seeking to be permitted pursuant to 35 Ill. Adm. Code 726.204(a)(4) and 726.210, which automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by 35 Ill. Adm. Code 726.210.
 - B) Boilers and Industrial Furnaces Burning Low Risk Waste~~industrial furnaces burning low risk waste~~. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a), which waive the DRE trial burn, the owner or operator must submit the following:

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- i) Documentation that the device is operated in conformance with 35 Ill. Adm. Code 726.209(a)(1).
- ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on appropriate analytical methods.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods;”, but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) ~~of this Section~~:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- iii) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in subsection (a)(2)(B)(ii) ~~of this Section~~ using procedures provided by 35 Ill. Adm. Code 726.209(a)(2)(B).

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- iv) Results of emissions dispersion modeling for emissions identified in subsection (a)(2)(B)(iii) ~~of this Section~~ using modeling procedures prescribed by 35 Ill. Adm. Code 726.206(h). The Agency must review the emission modeling conducted by the applicant to determine conformance with these procedures. The Agency must either approve the modeling or determine that alternate or supplementary modeling is appropriate.
 - v) Documentation that the maximum annual average ground level concentration of each constituent identified in subsection (a)(2)(B)(ii) ~~of this Section~~ quantified in conformance with subsection (a)(2)(B)(iv) ~~of this Section~~ does not exceed the allowable ambient level established in Appendix D or E to 35 Ill. Adm. Code 726. The acceptable ambient concentration for emitted constituents for which a specific reference air concentration has not been established in Appendix D to 35 Ill. Adm. Code 726 or risk-specific doses has not been established in Appendix E to 35 Ill. Adm. Code 726 is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix D to 35 Ill. Adm. Code 726.
- 3) Waiver of Trial Burn ~~trial burn~~ for Metals ~~metals~~. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator must submit the following:
- A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;
 - B) Documentation of the concentration of each metal controlled by 35 Ill. Adm. Code 726.206(b) or (c) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal;
 - C) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) or (e) will not be exceeded during the averaging period provided by that subsection;

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- D) Documentation to support the determination of the TESH (terrain-adjusted effective stack height), good engineering practice stack height, terrain type, and land use, as provided by 35 Ill. Adm. Code 726.206(b)(3) through (b)(5);
 - E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.206(b)(6), if applicable, for facilities with multiple stacks;
 - F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.206(b)(7) for eligibility to comply with the screening limits; and
 - G) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.
- 4) Waiver of Trial Burn ~~trial burn~~ for PM (Particulate Matter) (~~particulate matter~~). When seeking to be permitted under the low risk waste provisions of 35 Ill. Adm. Code 726.209(b), which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with subsections (a)(2)(B) and (a)(3) ~~of this Section~~.
- 5) Waiver of Trial Burn ~~trial burn~~ for HCl and Chlorine Gas ~~chlorine gas~~. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chlorine and chloride provided by 35 Ill. Adm. Code 726.207(b)(1) and (e) that control emissions of HCl and chlorine gas without requiring a trial burn, the owner or operator must submit the following:
- A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;
 - B) Documentation of the levels of total chlorine and chloride in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of total chlorine and chloride;
 - C) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by 35 Ill. Adm. Code 726.207(b)(1) or (e) will not be exceeded during the averaging period provided by that subsection;

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- D) Documentation to support the determination of the TESH, good engineering practice stack height, terrain type and land use as provided by 35 Ill. Adm. Code 726.207(b)(3);
 - E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.207(b)(4), if applicable, for facilities with multiple stacks;
 - F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.207(b)(3) for eligibility to comply with the screening limits; and
 - G) Proposed sampling and analysis plan for total chlorine and chloride for the hazardous waste, other fuels, and industrial furnace feedstocks.
- 6) Data in Lieu lieu of Trial Burn ~~trial burn~~. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Section 703.232 and 35 Ill. Adm. Code 726.204 through 726.207 by providing the information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203 or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Agency must approve a permit application without a trial burn if the Agency finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (pursuant to 35 Ill. Adm. Code 726.102) operating conditions that will ensure conformance with 35 Ill. Adm. Code 726.102(c). In addition, the following information must be submitted:
- A) For a waiver from any trial burn, the following:
 - i) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing or operational or trial burns are

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provided to support the contention that a trial burn is not needed;

- ii) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and
- iii) Such supplemental information as the Agency finds necessary to achieve the purposes of this subsection (a).

B) For a waiver of the DRE trial burn, the basis for selection of POHCs (principal organic hazardous constituents) used in the other trial or operational burns that demonstrate compliance with the DRE performance standard in 35 Ill. Adm. Code 726.204(a). This analysis should specify the constituents in Appendix H to 35 Ill. Adm. Code 721 that the applicant has identified in the hazardous waste for which a permit is sought and any differences from the POHCs in the hazardous waste for which burn data are provided.

b) Alternative HC ~~Limit~~ limit for ~~Industrial Furnaces~~ industrial furnaces with ~~Organic Matter~~ organic matter in ~~Raw Materials~~ raw materials. An owner or operator of industrial furnaces requesting an alternative HC limit pursuant to 35 Ill. Adm. Code 726.204(f) must submit the following information at a minimum:

- 1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;
- 2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;
- 3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuels and destruction of hydrocarbon emissions from nonfuel sources;
- 4) Trial burn plan to do the following:

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- A) To demonstrate when burning hazardous waste that flue gas HC (and CO) concentrations do not exceed the baseline HC (and CO) level; and
- B) To identify, in conformance with Section 703.232(d), the types and concentrations of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 that are emitted when burning hazardous waste;
- 5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and
- 6) Such other information as the Agency finds necessary to achieve the purposes of this subsection (b).
- c) ~~Alternative Metals Implementation Approach~~ ~~metals implementation approach~~. When seeking to be permitted under an alternative metals implementation approach pursuant to 35 Ill. Adm. Code 726.206(f), the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of 35 Ill. Adm. Code 726.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator must provide such other information that the Agency finds necessary to achieve the purposes of this subsection (c).
- d) ~~Automatic Waste Feed Cutoff System~~ ~~waste feed cutoff system~~. An owner or operator must submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.
- e) ~~Direct Transfer~~ ~~transfer~~. An owner or operator that uses direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 35 Ill. Adm. Code 726.211) directly to the boiler or industrial furnace must submit information supporting conformance with the standards for direct transfer provided by 35 Ill. Adm. Code 726.211.
- f) Residues. An owner or operator that claims that its residues are excluded from regulation pursuant to 35 Ill. Adm. Code 726.212 must submit information adequate to demonstrate conformance with those provisions.

BOARD NOTE: Derived from 40 CFR 270.22 ~~(2017)~~ (2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.210 Process Vents

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has process vents to which SUBPART AA of 35 Ill. Adm. Code 724 applies must provide the following additional information:

- a) For facilities that cannot install a closed-vent system and control device to comply with SUBPART AA of 35 Ill. Adm. Code 724 on the effective date on which the facility becomes subject to that SUBPART or SUBPART AA of 35 Ill. Adm. Code 725, an implementation schedule, as specified in 35 Ill. Adm. Code 724.933(a)(2).
- b) Documentation of compliance with the process vent standards in 35 Ill. Adm. Code 724.932, including the following:
 - 1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for the affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan);
 - 2) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur; and
 - 3) Information and data used to determine whether or not a process vent is subject to 35 Ill. Adm. Code 724.932.
- c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with 35 Ill. Adm. Code 724.932, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).

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- d) Documentation of compliance with 35 Ill. Adm. Code 724.933, including the following:
- 1) A list of all information references and sources used in preparing the documentation.
 - 2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(k).
 - 3) A design analysis, specifications, drawings, schematics, piping, and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts approved by the Agency that present basic control device information. The design analysis must address the vent stream characteristics and control device parameters as specified in 35 Ill. Adm. Code 724.935(b)(4)(C).
 - 4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.
 - 5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater, unless the total organic emission limits of 35 Ill. Adm. Code 724.932(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

BOARD NOTE: Derived from 40 CFR 270.24 ~~(2017)-(2005)~~, as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.211 Equipment

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has equipment to which SUBPART BB of 35 Ill. Adm. Code 724 applies must provide the following additional information:

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- a) For each piece of equipment to which SUBPART BB of 35 Ill. Adm. Code 724 applies, the following:
 - 1) Equipment identification number and hazardous waste management unit identification;
 - 2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);
 - 3) Type of equipment (e.g., a pump or pipeline valve);
 - 4) Percent by weight total organics in the hazardous wastestream at the equipment;
 - 5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and
 - 6) Method of compliance with the standard (e.g., “monthly leak detection and repair” or “equipped with dual mechanical seals”).
- b) For facilities that cannot install a closed-vent system and control device to comply with SUBPART BB of 35 Ill. Adm. Code 724 on the effective date that facility becomes subject to this SUBPART or SUBPART BB of 35 Ill. Adm. Code 724, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2).
- c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).
- d) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 or 724.959. This documentation must contain the records required pursuant to 35 Ill. Adm. Code 724.964. The Agency must request further documentation if necessary to demonstrate compliance. Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960 must include the following information:
 - 1) A list of all information references and sources used in preparing the documentation;

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- 2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(j);
- 3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a), or other engineering texts approved by the Agency that present basic control device information. The design analysis must address the vent stream characteristics and control device parameters, as specified in 35 Ill. Adm. Code 724.935(b)(4)(C);
- 4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur; and
- 5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Derived from 40 CFR 270.25 ~~(2017)~~-(2005), as amended at 70 Fed. Reg. 59402 ~~(Oct. 12, 2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: SPECIAL FORMS OF PERMITS

Section 703.221 Alternative Compliance with the Federal NESHAPS

When an owner or operator of a hazardous waste incineration unit becomes subject to RCRA permit requirements ~~after October 12, 2005~~, or when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in SUBPART EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance pursuant to 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of SUBPART EEE of 40 CFR 63), Sections 703.221 through 703.225 do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply

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with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of Sections 703.221 through 703.225, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

BOARD NOTE: Derived from 40 CFR 270.62 preamble ~~(2017)~~(2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.223 Incinerator Conditions During Trial Burn

For the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 724.443 and of determining adequate operating conditions under 35 Ill. Adm. Code 724.445, the Agency must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

- a) Applicants must propose a trial burn plan, prepared under subsection (b) ~~of this Section~~ with Part B of the permit application;
- b) The trial burn plan must include the following information:
 - 1) An analysis of each waste or mixture of wastes to be burned that includes the following:
 - A) Heat value of the waste in the form and composition in which it will be burned;
 - B) Viscosity (if applicable), or description of physical form of the waste;
 - C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721, that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on appropriate analytical methods; and

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- D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the appropriate analytical methods;

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- 2) A detailed engineering description of the incinerator for which the permit is sought including the following:
- A) Manufacturer’s name and model number of incinerator (if available);
 - B) Type of incinerator;
 - C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber;
 - D) Description of the auxiliary fuel system (type/feed);
 - E) Capacity of prime mover;
 - F) Description of automatic waste feed cut-off systems;
 - G) Stack gas monitoring and pollution control equipment;
 - H) Nozzle and burner design;

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- I) Construction materials;
- J) Location and description of temperature-, pressure-, and flow-indicating and control devices;
- 3) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;
- 4) A detailed test schedule for each waste for which the trial burn is planned including dates, duration, quantity of waste to be burned, and other factors relevant to the Agency's decision under subsection (e) ~~of this Section~~;
- 5) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;
- 6) A description of, and planned operating conditions for, any emission control equipment that will be used;
- 7) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;
- 8) Such other information as the Agency reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (b) and the criteria in subsection (e) ~~of this Section~~. Such information must be requested by the Agency pursuant to 35 Ill. Adm. Code 705.123;
- c) The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and must require the applicant, pursuant to 35 Ill. Adm. Code 705.123, to supplement this information, if necessary, to achieve the purposes of this Section;
- d) Based on the waste analysis data in the trial burn plan, the Agency must specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs must be specified by the Agency based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in SUBPART

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D of 35 Ill. Adm. Code 721, the hazardous waste organic constituent of constituents identified in Appendix G or H to 35 Ill. Adm. Code 721 as the basis for listing;

- e) The Agency must approve a trial burn plan if it finds the following:
 - 1) That the trial burn is likely to determine whether the incinerator performance standard required by 35 Ill. Adm. Code 724.443 can be met;
 - 2) That the trial burn itself will not present an imminent hazard to human health or the environment;
 - 3) That the trial burn will help the Agency to determine operating requirements to be specified under 35 Ill. Adm. Code 724.445; and
 - 4) That the information sought in subsections (e)(1) and (e)(3) ~~of this Section~~ cannot reasonably be developed through other means;

- f) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.
 - 1) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Agency.
 - 2) This notice must contain the following:
 - A) The name and telephone number of the applicant's contact person;
 - B) The name and telephone number of the Agency regional office appropriate for the facility;
 - C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and
 - D) An expected time period for commencement and completion of the trial burn;

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- g) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:
- 1) A quantitative analysis of the trial POHCs, in the waste feed to the incinerator;
 - 2) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, molecular oxygen, and hydrogen chloride (HCl);
 - 3) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs;
 - 4) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 724.443(a);
 - 5) If the HCl (hydrogen chloride) emission rate exceeds 1.8 kilograms (4 pounds) of HCl per hour (~~4 pounds per hour~~), a computation of HCl removal efficiency, in accordance with 35 Ill. Adm. Code 724.443(b);
 - 6) A computation of particulate emissions, in accordance with 35 Ill. Adm. Code 724.443(c);
 - 7) An identification of sources of fugitive emissions and their means of control;
 - 8) A measurement of average, maximum and minimum temperatures, and combustion gas velocity;
 - 9) A continuous measurement of carbon monoxide (CO) in the exhaust gas;
 - 10) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards in 35 Ill. Adm. Code 724.443 and to establish the operating conditions required by 35 Ill. Adm. Code 724.445 as necessary to meet that performance standard;
- h) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in subsection (g) ~~of this Section~~.

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This submission must be made within 90 days after completion of the trial burn, or later, if approved by the Agency;

- i) All data collected during any trial burn must be submitted to the Agency following the completion of the trial burn;
- j) All submissions required by this Section must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 35 Ill. Adm. Code 702.126;
- k) Based on the results of the trial burn, the Agency must set the operating requirements in the final permit according to 35 Ill. Adm. Code 724.445. The permit modification must proceed as a minor modification according to Section 703.280.

BOARD NOTE: Derived from 40 CFR 270.62(b) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements ~~after October 12, 2005~~ or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in SUBPART EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance pursuant to 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of SUBPART EEE of 40 CFR 63), this Section does not apply. This Section does apply, however, if the Agency determines certain provisions are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if the facility is an area source and the owner or operator elects to comply with the Sections 726.205, 726.206, and 726.207 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or if the Agency determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188, 703.189, and 703.241(a)(2) and (a)(3).

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- a) General. The owner or operator of a new boiler or industrial furnace (one not operating under the interim status standards of 35 Ill. Adm. Code 726.203) is subject to subsections (b) through (f) ~~of this Section~~. A boiler or industrial furnace operating under the interim status standards of 35 Ill. Adm. Code 726.203 is subject to subsection (g) ~~of this Section~~.
- b) Permit Operating Periods ~~operating periods~~ for a New Boiler ~~new boiler~~ or Industrial Furnace ~~industrial furnace~~. A permit for a new boiler or industrial furnace must specify appropriate conditions for the following operating periods:
 - 1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operation readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Agency must establish permit conditions in the pretrial burn period, including but not limited to allowable hazardous waste feed rates and operating conditions. The Agency must extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit must be modified to reflect the extension according to Sections 703.280 through 703.283.
 - A) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of 35 Ill. Adm. Code 726.204 through 726.207 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 35 Ill. Adm. Code ~~726.202(e)~~ 726.202(e).
 - B) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
 - 2) Trial Burn Period ~~burn period~~. For the duration of the trial burn, the Agency must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and determining adequate operating conditions pursuant to 35 Ill. Adm. Code 726.202(e).

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Applicants must propose a trial burn plan, prepared pursuant to subsection (c) of this Section, to be submitted with Part B of the permit application.

- 3) Post-Trial Burn Period~~Post-trial burn period.~~
 - A) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Agency to reflect the trial burn results, the Agency must establish the operating requirements most likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
 - B) Applicants must submit a statement, with Part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. This statement should include, at a minimum, restrictions on the operating requirements provided by 35 Ill. Adm. Code 726.202 (e).
 - C) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements of this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.
 - 4) Final permit period. For the final period of operation the Agency must develop operating requirements in conformance with 35 Ill. Adm. Code 726.202(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. Based on the trial burn results, the Agency must make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification must proceed according to Sections 703.280 through 703.283.
- c) Requirements for Trial Burn Plans~~trial burn plans~~. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and may require the

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applicant to supplement this information, if necessary, to achieve the purposes of this subsection (c).

- 1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes the following:
 - A) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine and chloride, and ash; and
 - B) Viscosity or description of the physical form of the feed stream.
- 2) An analysis of each hazardous waste, as fired, including the following:
 - A) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with appropriate analytical methods;
 - B) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the appropriate analytical methods; and
 - C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods;”, but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D) of this Section:

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

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1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- 3) A detailed engineering description of the boiler or industrial furnace, including the following:
 - A) Manufacturer's name and model number of the boiler or industrial furnace;
 - B) Type of boiler or industrial furnace;
 - C) Maximum design capacity in appropriate units;
 - D) Description of the feed system for the hazardous waste and, as appropriate, other fuels and industrial furnace feedstocks;
 - E) Capacity of hazardous waste feed system;
 - F) Description of automatic hazardous waste feed cutoff systems;
 - G) Description of any pollution control system; and
 - H) Description of stack gas monitoring and any pollution control monitoring systems.
- 4) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and sample analysis.
- 5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including dates, duration, quantity of hazardous waste to be burned, and other factors relevant to the Agency's decision pursuant to subsection (b)(2) of this Section.
- 6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to

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meet the performance standards in 35 Ill. Adm. Code 726.204 through 726.207.

- 7) A description of and planned operating conditions for any emission control equipment that will be used.
 - 8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.
 - 9) Such other information as the Agency finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (c) and the criteria in subsection (b)(2) ~~of this Section~~.
- d) Trial Burn Procedures ~~burn procedures~~.
- 1) A trial burn must be conducted to demonstrate conformance with the standards of 35 Ill. Adm. Code 726.104 through 726.107.
 - 2) The Agency must approve a trial burn plan if the Agency finds as follows:
 - A) That the trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 35 Ill. Adm. Code 726.104 through 726.107;
 - B) That the trial burn itself will not present an imminent hazard to human health and the environment;
 - C) That the trial burn will help the Agency to determine operating requirements to be specified pursuant to 35 Ill. Adm. Code 726.102(e); and
 - D) That the information sought in the trial burn cannot reasonably be developed through other means.
 - 3) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.

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- A) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Agency.
- B) This notice must contain the following:
 - i) The name and telephone number of applicant's contact person;
 - ii) The name and telephone number of the Agency regional office appropriate for the facility;
 - iii) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and
 - iv) An expected time period for commencement and completion of the trial burn.
- 4) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and submit the results of all the determinations required in subsection (c) of this Section. The Agency must, in the trial burn plan, require that the submission be made within 90 days after completion of the trial burn, or later if the Agency determines that a later date is acceptable.
- 5) All data collected during any trial burn must be submitted to the Agency following completion of the trial burn.
- 6) All submissions required by this subsection (d) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report pursuant to 35 Ill. Adm. Code 702.126.
- e) Special Procedures ~~procedures~~ for DRE Trial Burns ~~trial burns~~. When a DRE trial burn is required pursuant to 35 Ill. Adm. Code 726.104, the Agency must specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Agency based on information including the Agency's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived

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from wastes listed in SUBPART D of 35 Ill. Adm. Code 721, the hazardous waste organic constituents identified in Appendix G to 35 Ill. Adm. Code 721 as the basis for listing.

- f) Determinations ~~Based based on Trial Burn-trial burn~~. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:
- 1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);
 - 2) When a DRE trial burn is required pursuant to 35 Ill. Adm. Code 726.204(a), the following determinations:
 - A) A quantitative analysis of the trial POHCs in the hazardous waste feed;
 - B) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and
 - C) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 726.204(a);
 - 3) When a trial burn for chlorinated dioxins and furans is required pursuant to 35 Ill. Adm. Code 726.204(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra- through octa-congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;
 - 4) When a trial burn for PM, metals, or HCl and chlorine gas is required pursuant to 35 Ill. Adm. Code 726.205, 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of PM, metals, or HCl and chlorine gas, and computations showing conformance with the applicable emission performance standards;
 - 5) When a trial burn for DRE, metals, and HCl and chlorine gas is required pursuant to 35 Ill. Adm. Code 726.204(a), 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the scrubber water (if any),

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ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine and chloride;

- 6) An identification of sources of fugitive emissions and their means of control;
 - 7) A continuous measurement of carbon monoxide (CO), oxygen, and, where required, hydrocarbons (HC) in the stack gas; and
 - 8) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards 35 Ill. Adm. Code 726.204 through 726.207 and to establish the operating conditions required by 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions pursuant to 35 Ill. Adm. Code 726.203, and to establish the operating conditions required by 35 Ill. Adm. Code 726.202(e) as necessary to meet those performance standards.
- g) Interim Status Boilers ~~status boilers~~ and Industrial Furnaces ~~industrial furnaces~~. For the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions pursuant to 35 Ill. Adm. Code 726.203, an applicant that owns or operates an existing boiler or industrial furnace that is operated under the interim status standards of 35 Ill. Adm. Code 726.203 must either prepare and submit a trial burn plan and perform a trial burn in accordance with this Section or submit other information as specified in Section 703.208(a)(6). The Agency must announce its intention to approve of the trial burn plan in accordance with the timing and distribution requirements of subsection (d)(3) ~~of this Section~~. The contents of the notice must include all of the following information: the name and telephone number of a contact person at the facility; the name and telephone number of the Agency regional office appropriate for the facility; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Agency approval of the plan, and the time periods during which the trial burn would be conducted. Applicants that submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in subsection (f) ~~of this Section~~ with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Agency to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with

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Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Agency.

BOARD NOTE: Derived from 40 CFR 270.66 ~~(2017)~~-(2005), as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: CHANGES TO PERMITS

Section 703.270 Modification or Reissuance

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee, as required in the permit (see 35 Ill. Adm. Code 702.140 through 702.152 and Section 703.241 et seq.), receives a request for reissuance pursuant to 35 Ill. Adm. Code 705.128, or conducts a review of the permit file) it may determine whether or not one or more of the causes, listed in Sections 703.271 or 703.272, for modification, reissuance, or both, exist. If cause exists, the Agency must modify or reissue the permit accordingly, subject to the limitations of Section 703.273, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 35 Ill. Adm. Code 705.128(c)(2).) If cause does not exist pursuant to Section 703.271 or 703.272, the Agency must not modify or reissue the permit, except on the request of the permittee. If a permit modification is requested by the permittee, the Agency must approve or deny the request according to the procedures of Section 703.280 through 703.283 or Section 703.353 and SUBPART G of 35 Ill. Adm. Code 705. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 must be followed.

BOARD NOTE: Derived from the preamble to 40 CFR 270.41 ~~(2017)~~-(2005), as amended at 70 Fed. Reg. 53420 (Sep. 8, 2005). The Board has chosen to use "reissue" where the corresponding federal provisions use "revoke and reissue.". ~~Revocation This was because permit revocation is~~ a remedy in the context of an enforcement action that is reserved to the Board. See 415 ILCS 5/33(b)-(2004); 35 Ill. Adm. Code 702.186-(2004). The Board intends that a reissued permit completely supercede the earlier version of that permit.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.280 Permit Modification at the Request of the Permittee

- a) Class 1 ~~Modifications~~ modifications. See Section 703.281.

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- b) Class 2 Modifications~~modifications~~. See Section 703.282.
- c) Class 3 Modifications~~modifications~~. See Section 703.283.
- d) Other Modifications~~modifications~~.
 - 1) In the case of modifications not explicitly listed in Appendix A ~~of this Part~~, the permittee may submit a Class 3 modification request to the Agency, or the permittee may request a determination by the Agency that the modification be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, the permittee must provide the Agency with the necessary information to support the requested classification.
 - 2) The Agency must make the determination described in subsection (d)(1) ~~of this Section~~ as promptly as practicable. In determining the appropriate class for a specific modification, the Agency must consider the similarity of the modification to other modifications codified in Appendix A ~~of this Part~~ and the following criteria:
 - A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to adequately protect human health or the environment. In the case of Class 1 modifications, the Agency may require prior approval.
 - B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to any of the following:
 - i) Common variations in the types and quantities of the wastes managed under the facility permit;
 - ii) Technological advances; and
 - iii) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.
 - C) Class 3 modifications substantially alter the facility or its operation.

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- e) Temporary Authorizations~~authorizations~~.
- 1) Upon request of the permittee, the Agency must, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection (e). Temporary authorizations have a term of not more than 180 days.
 - 2) Procedures:
 - A) The permittee may request a temporary authorization for the following:
 - i) Any Class 2 modification meeting the criteria in subsection (e)(3)(B)~~of this Section~~; and
 - ii) Any Class 3 modification that meets the criteria in subsection (e)(3)(B)(i)~~of this Section~~ or that meets the criteria in subsections (e)(3)(B)(iii) through (e)(3)(B)(v)~~of this Section~~ and provides improved management or treatment of a hazardous waste already listed in the facility permit.
 - B) The temporary authorization request must include the following:
 - i) A description of the activities to be conducted under the temporary authorization;
 - ii) An explanation of why the temporary authorization is necessary; and
 - iii) Sufficient information to ensure compliance with 35 Ill. Adm. Code 724 standards.
 - C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Agency and to appropriate units of State and local governments, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.

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- 3) The Agency must approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency must find as follows:
 - A) That the authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.
 - B) That the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
 - i) To facilitate timely implementation of closure or corrective action activities;
 - ii) To allow treatment or storage in tanks, containers, or containment buildings, in accordance with 35 Ill. Adm. Code 728;
 - iii) To prevent disruption of ongoing waste management activities;
 - iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
 - v) To facilitate other changes to adequately protect human health and the environment.

- 4) A temporary authorization must be reissued for one additional term of up to 180 days, provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and either of the following is true:
 - A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D); or
 - B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.

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- f) Public ~~Notice notice~~ and ~~Appeals appeals~~ of Permit Modification Decisions
~~permit modification decisions.~~
- 1) The Agency must notify persons on the facility mailing list and appropriate units of State and local government within 10 days after any decision to grant or deny a Class 2 or 3 permit modification request. The Agency must also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect pursuant to Section 703.282(f)(3) or (f)(5).
 - 2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.
 - 3) An automatic authorization that goes into effect pursuant to Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal notwithstanding the provisions of 35 Ill. Adm. Code 705.204.
- g) Newly Regulated Wastes ~~regulated wastes~~ and Units ~~units~~.
- 1) The permittee is authorized to continue to manage wastes listed or identified as hazardous pursuant to 35 Ill. Adm. Code 721, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if each of the following is true:
 - A) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
 - B) The permittee submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;
 - C) The permittee is in compliance with the applicable standards of 35 Ill. Adm. Code 725 and 726;
 - D) The permittee also submits a complete Class 2 ~~class 2~~ or 3 modification request within 180 days after the effective date of the

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rule listing or identifying the waste, or subjecting the unit to management standards pursuant to 35 Ill. Adm. Code 724, 725, or 726; and

- E) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of 35 Ill. Adm. Code 725 for groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator loses authority to operate pursuant to this Section.
- 2) New wastes or units added to a facility's permit pursuant to this subsection (g) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.
- h) Military Hazardous Waste Munitions Treatment ~~hazardous waste munitions treatment and Disposal~~ ~~disposal~~. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if each of the following is true:
 - 1) The facility was in existence as a hazardous waste facility and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;
 - 2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and
 - 3) The permittee submits a complete Class 2 modification request within 180 days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.
- i) Permit Modification List ~~modification list~~. The Agency must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

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- j) Combustion Facility Changes ~~facility changes to Meet meet federal~~ 40 CFR 63 MACT Standards ~~standards~~. The following procedures apply to hazardous waste combustion facility permit modifications requested pursuant to Appendix A, paragraph L(9) ~~of this Part~~.
- 1) A facility owner or operator must have complied with the federal notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to October 11, 2000, (see SUBPART EEE of 40 CFR 63 (2000), incorporated by reference in 35 Ill. Adm. Code 720.111(b)) in order to request a permit modification pursuant to this Section for the purpose of technology changes needed to meet the standards of 40 CFR 63.1203, 63.1204, and 63.1205, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) If the Agency does not act to either approve or deny the request within 90 days of receiving it, the request must be deemed approved. The Agency may, at its discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator in writing before the 90 days has expired. A facility owner or operator must comply with the NIC requirements of 40 CFR 63.1210(b) and 63.1212(a) before a permit modification can be requested under this Section for the purpose of technology changes needed to meet the 40 CFR 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards as added on October 12, 2005, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- k) Waiver of RCRA Permit Conditions ~~permit conditions in Support support of Transition~~ transition to the federal 40 CFR 63 MACT Standards ~~standards~~.
- 1) The facility owner or operator may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under Appendix A ~~of this Part~~, paragraph L.10. The owner or operator must provide the information described in subsections (k)(1)(A) through (k)(1)(C) ~~of this Section~~, with Agency review subject to the conditions of subsection (k)(1)(D) ~~of this Section~~:
 - A) It must identify the specific RCRA permit operating and emissions limits that the owner or operator is requesting to waive;
 - B) It must provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and

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- C) It must discuss how the revised provisions will be sufficiently protective.
 - D) The Agency must approve or deny the request within 30 days after receipt of the request. The Agency may, at its discretion, extend this 30-day deadline one time for up to 30 days by notifying the facility owner or operator in writing.
- 2) To request this modification in conjunction with MACT performance testing, where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (h)(2)(ii), incorporated by reference in 35 Ill. Adm. Code 720.111(b), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Agency) the owner or operator must fulfill the conditions of subsection (k)(2)(A) ~~of this Section~~, subject to the conditions of subsection (k)(2)(B) ~~of this Section~~:
- A) It must submit its modification request to the Agency at the same time it submits its test plans to the Agency.
 - B) The Agency may elect to approve or deny the request contingent upon approval of the test plans.
- 1) This subsection (l) corresponds with 40 CFR 270.42(l), which ~~became obsolete when USEPA removed and marked reserved at 81 Fed. Reg. 85732 (November 28, 2016) 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, note 1 (Mar. 18, 2010).~~ This statement maintains structural consistency with the corresponding federal requirements.

BOARD NOTE: Derived from 40 CFR 270.42(d) through (k) ~~(2017)-(2012)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.282 Class 2 Modifications

- a) For Class 2 modifications, listed in Appendix A, the permittee must submit a modification request to the Agency that does the following:
 - 1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

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- 2) Identifies that the modification is a Class 2 modification;
 - 3) Explains why the modification is needed; and
 - 4) Provides the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225, and 703.230.
- b) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government as specified in 35 Ill. Adm. Code 705.163(a)(5) and must, to the extent practicable, publish this notice in a newspaper of general circulation published in the County in which the facility is located. If no such newspaper exists, the permittee must publish the notice in a newspaper of general circulation in the vicinity of the facility. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Agency evidence of the mailing and publication. The notice must include:
- 1) Announcement of a 60-day comment period, in accordance with subsection (e) ~~of this Section~~, and the name and address of an Agency contact to whom comments must be sent;
 - 2) Announcement of the date, time and place for a public meeting held in accordance with subsection (d) ~~of this Section~~;
 - 3) Name and telephone number of the permittee's contact person;
 - 4) Name and telephone number of an Agency contact person;
 - 5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and
 - 6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."
- c) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

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- d) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) ~~of this Section~~ and no later than 15 days before the close of the 60-day comment period. The meeting must be held in the County in which the permitted facility is located, unless it is impracticable to do so, in which case the hearing must be held in the vicinity of the facility.
- e) The public must be provided 60 days to comment on the modification request. The comment period begins on the date that the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.
- f) Agency Decision ~~decision~~.
 - 1) No later than 90 days after receipt of the notification request, the Agency must:
 - A) Approve the modification request, with or without changes, and modify the permit accordingly;
 - B) Deny the request;
 - C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for either of the following reasons:
 - i) There is significant public concern about the proposed modification; or
 - ii) The complex nature of the change requires the more extensive procedures of Class 3;
 - D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or
 - E) Notify the permittee that the Agency will decide on the request within the next 30 days.
 - 2) If the Agency notifies the permittee of a 30-day extension for a decision, the Agency must, no later than 120 days after receipt of the modification request, do the following:

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- A) Approve the modification request, with or without changes, and modify the permit accordingly;
 - B) Deny the request;
 - C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for the following reasons:
 - i) There is significant public concern about the proposed modification; or
 - ii) The complex nature of the change requires the more extensive procedures of Class 3; or
 - D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.
- 3) If the Agency fails to make one of the decisions specified in subsection (f)(2) ~~of this Section~~ by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal Agency action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725. If the Agency approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subsections (f)(1), (f)(2), or (f)(3) ~~of this Section~~, such action cancels the temporary or automatic authorization.
- 4) Notification by Permittee ~~permittee~~.
- A) In the case of an automatic authorization under subsection (f)(3) ~~of this Section~~, or a temporary authorization under subsection (f)(1)(D) or (f)(2)(D) ~~of this Section~~, if the Agency has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must, within seven days after that time, send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that informs them as follows:

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- i) That the permittee has been authorized temporarily to conduct the activities described in the permit modification request; and
 - ii) That, unless the Agency acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.
- B) If the owner or operator fails to notify the public by the date specified in subsection (f)(4)(A) ~~of this Section~~, the effective date of the permanent authorization will be deferred until 50 days after the owner or operator notifies the public.
- 5) Except as provided in subsection (f)(7) ~~of this Section~~, if the Agency does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3 modification, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under Section 703.270 or Section 703.280. The activities authorized under this subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725.
- 6) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Agency must consider all written comments submitted to the Agency during the public comment period and must respond in writing to all significant comments in the Agency's decision.
- 7) With the written consent of the permittee, the Agency may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.
- g) The Agency must deny or change the terms of a Class 2 permit modification request under subsections (f)(1) through (f)(3) ~~of this Section~~ for the following reasons:
 - 1) The modification request is incomplete;

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- 2) The requested modification does not comply with the appropriate requirements of 35 Ill. Adm. Code 724 or other applicable requirements; or
 - 3) The conditions of the modification fail to protect human health and the environment.
- h) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Agency establishes a later date for commencing construction and informs the permittee in writing before day 60.

BOARD NOTE: Derived from 40 CFR 270.42(b) (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.283 Class 3 Modifications

- a) For Class 3 modifications, listed in Appendix A, the permittee must submit a modification request to the Agency that does the following:
 - 1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
 - 2) Identifies that the modification is a Class 3 modification;
 - 3) Explains why the modification is needed; and
 - 4) Provides the applicable information required by Section 703.181 through 703.187, 703.201 through 703.209, 703.221 through 703.225, 703.230, and 703.232.
- b) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government, as specified in 35 Ill. Adm. Code 705.163(a)(5), and must publish this notice in a newspaper of general circulation in the county in which the facility is located. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Agency evidence of the mailing and publication. The notice must include the following:

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- 1) Announcement of a 60-day comment period, in accordance with subsection (e) ~~of this Section~~, and the name and address of an Agency contact to whom comments must be sent;
 - 2) Announcement of the date, time, and place for a public meeting held in accordance with subsection (d) ~~of this Section~~;
 - 3) Name and telephone number of the permittee's contact person;
 - 4) Name and telephone number of an Agency contact person;
 - 5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and
 - 6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person:".
- c) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.
 - d) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) ~~of this Section~~ and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
 - e) The public must be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.
 - f) After the conclusion of the 60-day comment period, the Agency must grant or deny the permit modification request, according to the permit modification procedures of 35 Ill. Adm. Code 705. In addition, the Agency must consider and respond to all significant written comments received during the 60-day comment period.

BOARD NOTE: Derived from 40 CFR 270.42(c) (2017) ~~(2002)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY (MACT) STANDARDS

**Section 703.320 Options for Incinerators and Cement and Lightweight Aggregate Kilns to
Minimize Emissions from Startup, Shutdown, and Malfunction Events**

- a) Facilities with Existing Permits ~~existing permits~~.
- 1) Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a RCRA-permitted incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace, when requesting removal of permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b), may request that the Agency address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options:
- A) Retain Relevant Permit Conditions ~~relevant permit conditions~~.
Under this option, the Agency must do the following:
- i) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required pursuant to 40 CFR 63.1206(c)(2) (When and How Must You Comply with the Standards and Operating Requirements?), incorporated by reference in 35 Ill. Adm. Code 720.111(b); and
- ii) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.
- B) Revise Relevant Permit Conditions ~~relevant permit conditions~~.
Under this option, the following must occur:
- i) The Agency must identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup,

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shutdown, and malfunction plan, design, and operating history;

- ii) The Agency must retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan; and
- iii) The owner or operator must comply with subsection (a)(3) ~~of this Section.~~

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(1)(ii) in this subsection (a)(1)(B) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(1)(ii)(A), (a)(1)(ii)(A)(1), and (a)(1)(ii)(A)(2) appear as subsections (a)(1)(B), (a)(1)(B)(i), and (a)(1)(B)(ii). The substance of 40 CFR 270.235(a)(1)(ii)(B) has been codified as subsection (a)(3) ~~of this Section.~~ The Board added subsection (a)(1)(B)(iii) ~~of this Section~~ to direct attention to subsection (a)(3).

- C) Remove Permit Conditions ~~permit conditions~~. Under this option the following are required:
 - i) The owner or operator must document that the startup, shutdown, and malfunction plan required pursuant to 40 CFR 63.1206(c)(2) has been approved pursuant to 40 CFR 63.1206(c)(2)(ii)(B); and
 - ii) The Agency must remove permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b).
- 2) Addressing Permit Conditions ~~permit conditions~~ upon Permit Reissuance ~~permit reissuance~~. The owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that has conducted a comprehensive performance test and submitted to the Agency a Notification of Compliance documenting compliance with the standards of SUBPART EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), may request in the application to reissue the permit for the combustion unit that the Agency control emissions from

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startup, shutdown, and malfunction events under any of the following options:

- A) RCRA Option ~~option~~-A. Under this option, the Agency must do the following:
- i) Include, in the permit, conditions that ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) or 726.202(e)(1) and (e)(2)(C) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and
 - ii) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(i) in this subsection (a)(2)(A) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(i)(A), (a)(2)(i)(A)(1), and (a)(2)(i)(A)(2) appear as subsections (a)(2)(A), (a)(2)(A)(i), and (a)(2)(A)(ii).

- B) RCRA Option ~~option~~-B. Under this option, the following must occur:
- i) The Agency must include, in the permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history;
 - ii) The Agency must specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; and
 - iii) The owner or operator must comply with subsection (a)(3) of this Section; and

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(ii) in this

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subsection (a)(2)(B) in order to comport with Illinois Administrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(ii)(A), (a)(2)(ii)(A)(1), and (a)(2)(ii)(A)(2) appear as subsections (a)(2)(B), (a)(2)(B)(i), and (a)(2)(B)(ii). The substance of 40 CFR 270.235(a)(2)(ii)(B) has been codified as subsection (a)(3) ~~of this Section~~. The Board added subsection (a)(2)(B)(iii) ~~of this Section~~ to direct attention to subsection (a)(3).

- C) ~~CAA Option option~~. Under this option the following are required:
- i) The owner or operator must document that the startup, shutdown, and malfunction plan required pursuant to 40 CFR 63.1206(c)(2) has been approved pursuant to 40 CFR 63.1206(c)(2)(ii)(B); and
 - ii) The Agency must omit from the permit conditions that are not applicable pursuant to 35 Ill. Adm. Code 724.440(b) and 726.200(b).
- 3) Changes That May Significantly Increase Emissions ~~that may significantly increase emissions~~.
- A) The owner or operator must notify the Agency in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The owner or operator must notify the Agency of such changes within five days of making such changes. The owner or operator must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.
 - B) The Agency may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents in either of the following ways:
 - i) Upon permit renewal; or

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- ii) If warranted, by modifying the permit pursuant to Section 703.270 or 703.280 through 703.283.

BOARD NOTE: The substance of 40 CFR 270.235(a)(1)(ii)(B) and (a)(2)(ii)(B) has been codified as this subsection (a)(3).

- b) Interim Status Facilities ~~status facilities~~.
 - 1) Interim status operations. In compliance with 35 Ill. Adm. Code 725.440 and 726.200(b), the owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance documenting compliance with the standards of SUBPART EEE of 40 CFR 63:
 - A) RCRA Option ~~option~~. Under this option, the owner or operator must continue to comply with the interim status emission standards and operating requirements of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or
 - B) CAA Option ~~option~~. Under this option, the owner or operator is exempt from the interim status standards of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Agency that the startup, shutdown, and malfunction plan required pursuant to 40 CFR 63.1206(c)(2) has been approved pursuant to 40 CFR 63.1206(c)(2)(ii)(B).
 - 2) Operations Under a Subsequent ~~subsequent~~ RCRA Permit permit. When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 submits a RCRA permit application, the owner or operator may request that the Agency control emissions from startup,

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shutdown, and malfunction events under any of the options provided by subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of this Section.

- c) New Units-units. A hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace unit that becomes subject to RCRA permit requirements ~~after October 12, 2005~~ must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:
- 1) It may comply with the requirements specified in 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
 - 2) It may request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information, including the source's startup, shutdown, and malfunction plan and design. The Agency must specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

BOARD NOTE: Derived from 40 CFR 270.235 ~~(2017) (2005)~~, as amended at 70 Fed. Reg. 59402 (Oct. 12, 2005). Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of SUBPART EEE of 40 CFR 63.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART J: RCRA STANDARDIZED PERMITS FOR STORAGE AND TREATMENT UNITS

Section 703.350 General Information About RCRA Standardized Permits

- a) RCRA Standardized Permit-standardized permit. A RCRA standardized permit (RCRA) is a special type of permit that authorizes the owner or operator of a facility to manage hazardous waste. A RCRA standardized permit is issued pursuant to SUBPART G of 35 Ill. Adm. Code 705 and this SUBPART J.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 270.250 ~~(2017) (2007)~~.

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- b) Eligibility for a RCRA Standardized Permit~~standardized permit~~.
- 1) The facility owner or operator may be eligible for a RCRA standardized permit if the following conditions are fulfilled:
 - A) The facility generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or containment buildings; or
 - B) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and the facility stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.
 - C) The Agency must inform the facility owner or operator of its eligibility for a RCRA standardized permit when the Agency makes a decision on its permit application.
 - 2) This subsection (b)(2) corresponds with 40 CFR 270.255(b), which USEPA has marked "Reserved.". This statement maintains structural consistency with the corresponding federal rules.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.255 (2017)~~(2007)~~.

- c) Permit Requirements Applicable to a RCRA Standardized Permit~~standardized permit~~. The following provisions of this Part and 35 Ill. Adm. Code 702 apply to a RCRA standardized permit:
- 1) General Information: All provisions derived from SUBPART A of 40 CFR 270 apply: Sections 703.110, 703.121 through 703.124, 703.158 through 703.160, and 703.161(a) and 35 Ill. Adm. Code 702.104, 702.110, 702.181, and 720.111.
 - 2) Permit Application: All provisions derived from 40 CFR 270.10, 270.11, 270.12, 270.13, and 270.29 in SUBPART B of 40 CFR 270 apply: Sections 703.125, 703.126, 703.150 through ~~though~~ 703.152, 703.157, 703.181, 703.186, 703.188, and 703.240 and 35 Ill. Adm. Code 702.103, 702.120 through 702.124, and 702.126.

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- 3) Permit Conditions: All provisions derived from SUBPART C of 40 CFR 270 apply: Sections 703.241 through 703.248 and 35 Ill. Adm. Code 702.140 through 702.152, 702.160, and 702.162 through 702.164.
- 4) Changes to Permit: All provisions derived from 40 CFR 270.40, 270.41, and 270.43 in SUBPART D of 40 CFR 270 apply: Sections 703.260 and 703.270 ~~through~~ ~~though~~ 703.273 and 35 Ill. Adm. Code 702.186.
- 5) Expiration and Continuation of Permits: All provisions derived from SUBPART E of 40 CFR 270 apply: 35 Ill. Adm. Code 702.125 and 702.161.
- 6) Special Forms of Permits: The provision derived from 40 CFR 270.67 in SUBPART F of 40 CFR 270 apply: Section 703.238.
- 7) Interim Status: All provisions derived from SUBPART G of 40 CFR 270 apply: Sections 703.153 through 703.157.
- 8) Remedial Action Plans: No provisions derived from SUBPART H of 40 CFR 270 apply: no provisions of SUBPART H of 35 Ill. Adm. Code 703 apply.
- 9) RCRA Standardized Permits: All provisions derived from SUBPART J of 40 CFR 270 apply: this SUBPART J.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 270.260 (2017) ~~(2007)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.352 Information That Must Be Kept at the Facility

- a) General ~~Types~~ ~~types~~ of Information ~~information~~ to Be Maintained ~~be maintained~~ at the Facility ~~facility~~. The facility owner or operator must keep the following information at its facility:
 - 1) A general description of the facility;
 - 2) Results of chemical and physical analyses of the hazardous waste and hazardous debris handled at the facility. At a minimum, these results of analyses must contain all the information that the owner or operator must

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- know to treat or store the wastes properly pursuant to 35 Ill. Adm. Code 727;
- 3) A copy of the waste analysis plan required by 35 Ill. Adm. Code 727.110(d)(2);
 - 4) A description of the security procedures and equipment required by 35 Ill. Adm. Code 727.110(e);
 - 5) A copy of the general inspection schedule required by 35 Ill. Adm. Code 727.110(f)(2). The owner or operator must include in the inspection schedule applicable requirements of 35 Ill. Adm. Code 724.933, 724.952, 724.953, 724.958, 724.988, 727.270(e), and 727.290(d) and (f);
 - 6) A justification of any modification of the preparedness and prevention requirements of 35 Ill. Adm. Code 727.130(a) through (f);
 - 7) A copy of the contingency plan required by 35 Ill. Adm. Code 727.150;
 - 8) A description of procedures, structures, or equipment used at the facility to accomplish each of the following:
 - A) Prevent hazards in unloading operations (for example, use ramps, special forklifts);
 - B) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, with berms, dikes, trenches, etc.);
 - C) Prevent contamination of water supplies;
 - D) Mitigate effects of equipment failure and power outages;
 - E) Prevent undue exposure of personnel to hazardous waste (for example, requiring protective clothing); and
 - F) Prevent releases to atmosphere;
 - 9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required by 35 Ill. Adm. Code 727.110(h);

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- 10) The traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes; describe access road surfacing and load bearing capacity; show traffic control signals, etc.);
- 11) This subsection (a)(11) corresponds with 40 CFR 270.290(k), which USEPA has marked "Reserved:". This statement maintains structural consistency with the corresponding federal rules;
- 12) An outline of both the introductory and continuing training programs that the owner or operator will use to prepare employees to operate or maintain its facility safely as required by 35 Ill. Adm. Code 727.110(g). A brief description of how training will be designed to meet actual job tasks pursuant to 35 Ill. Adm. Code 727.110(g)(1)(B) requirements;
- 13) A copy of the closure plan required by 35 Ill. Adm. Code 727.210(c). Include, where applicable, as part of the plans, specific requirements in 35 Ill. Adm. Code 727.270(g), 727.290(l), and 727.900(i);
- 14) This subsection (a)(14) corresponds with 40 CFR 270.290(n), which USEPA has marked "Reserved:". This statement maintains structural consistency with the corresponding federal rules;
- 15) The most recent closure cost estimate for the facility prepared pursuant to 35 Ill. Adm. Code 727.240(c) and a copy of the documentation required to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 727.240(d). For a new facility, the owner or operator may gather the required documentation 60 days before the initial receipt of hazardous wastes;
- 16) This subsection (a)(16) corresponds with 40 CFR 270.290(p), which USEPA has marked "Reserved:". This statement maintains structural consistency with the corresponding federal rules;
- 17) Where applicable, a copy of the insurance policy or other documentation that complies with the liability requirements of 35 Ill. Adm. Code 727.240(h). For a new facility, documentation showing the amount of insurance meeting the specification of 35 Ill. Adm. Code 727.240(h)(1) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment or storage;
- 18) Where appropriate, proof of coverage by a State financial mechanism, as required by 35 Ill. Adm. Code 727.240(j) or 727.240(k);

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- 19) A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). The map must show elevation contours. The contour interval must show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). If the facility is in a mountainous area, the owner or operator should use large contour intervals to adequately show topographic profiles of the facility. The map must clearly show each of the following:
- A) The map scale and date;
 - B) Any 100-year flood plain area;
 - C) All surface waters including intermittent streams;
 - D) The surrounding land uses (residential, commercial, agricultural, recreational, etc.);
 - E) A wind rose (*i.e.*, prevailing windspeed and direction);
 - F) The orientation of the map (north arrow);
 - G) Legal boundaries of the facility site;
 - H) Facility access control (fences, gates);
 - I) All injection and withdrawal wells both on-site and off-site;
 - J) All buildings; treatment, storage, or disposal operations; and other structures (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
 - K) Barriers for drainage or flood control; and
 - L) The location of operational units within the facility where hazardous waste is (or will be) treated or stored (including equipment cleanup areas).

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BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 270.290 (2017)-(2007).

- b) Container ~~Information~~ information to Be Maintained ~~be maintained~~ at the Facility ~~facility~~. If the facility owner or operator stores or treats hazardous waste in containers, it must keep the following information at its facility:
- 1) A description of the containment system to demonstrate compliance with the container storage area provisions of 35 Ill. Adm. Code 727.270(d). This description must show the following information:
 - A) The basic design parameters, dimensions, and materials of construction;
 - B) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;
 - C) The capacity of the containment system relative to the number and volume of containers to be stored;
 - D) The provisions for preventing or managing run-on; and
 - E) How accumulated liquids can be analyzed and removed to prevent overflow;
 - 2) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 35 Ill. Adm. Code 727.270(d)(3), including the following:
 - A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and
 - B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;
 - 3) Sketches, drawings, or data demonstrating compliance with 35 Ill. Adm. Code 727.270(e) (location of buffer zone (15m or 50ft) and containers holding ignitable or reactive wastes) and 35 Ill. Adm. Code 727.270(f)(3) (location of incompatible wastes in relation to each other), where applicable;

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- 4) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 35 Ill. Adm. Code 727.270(f)(1) and (f)(2), and 35 Ill. Adm. Code 727.110(h)(2) and (h)(3); and
- 5) Information on air emission control equipment as required by Section 703.352(e).

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 270.300 (2017)-(2007).

- c) Tank ~~Information information to Be Maintained~~ be maintained at the Facility ~~facility~~. If the facility owner or operator uses tanks to store or treat hazardous waste, it must keep the following information at its facility:
 - 1) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer on the structural integrity and suitability for handling hazardous waste of each tank system, as required pursuant to 35 Ill. Adm. Code 727.290(b) and (c);
 - 2) The dimensions and capacity of each tank;
 - 3) A description of feed systems, safety cutoff, bypass systems, and pressure controls (*e.g.*, vents);
 - 4) A diagram of piping, instrumentation, and process flow for each tank system;
 - 5) A description of materials and equipment used to provide external corrosion protection, as required pursuant to 35 Ill. Adm. Code 727.290(b);
 - 6) For new tank systems, a detailed description of how the tank systems will be installed in compliance with 35 Ill. Adm. Code 727.290(c) and (e);
 - 7) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of 35 Ill. Adm. Code 727.290(f) and (g);
 - 8) This subsection (c)(8) corresponds with 40 CFR 270.305(h), which USEPA has marked "Reserved-". This statement maintains structural consistency with the corresponding federal rules;

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- 9) A description of controls and practices to prevent spills and overflows, as required pursuant to 35 Ill. Adm. Code 727.290(i);
- 10) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with 35 Ill. Adm. Code 727.290(m) and (n); and
- 11) Information on air emission control equipment, as required by Section 703.352(e).

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 270.305 (2017)-(2007).

- d) Equipment ~~Information information to~~ Be Maintained ~~be maintained~~ at the ~~Facility facility~~. If the facility has equipment to which SUBPART BB of 35 Ill. Adm. Code 724 applies, the facility owner or operator must keep the following information at its facility:
 - 1) For each piece of equipment to which SUBPART BB of 35 Ill. Adm. Code 724 applies, the following:
 - A) The equipment identification number and hazardous waste management unit identification;
 - B) The approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);
 - C) The type of equipment (e.g., a pump or a pipeline valve);
 - D) The percent by weight of total organics in the hazardous waste stream at the equipment;
 - E) The phase of the hazardous waste at the equipment (e.g., gas or vapor or liquid); and
 - F) The method of compliance with the standard (e.g., monthly leak detection and repair, or equipped with dual mechanical seals);
 - 2) For a facility that cannot install a closed-vent system and control device to comply with SUBPART BB of 35 Ill. Adm. Code 724 on the effective

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date that the facility becomes subject to the SUBPART BB provisions, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2);

- 3) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 and 724.959. This documentation must contain the records required pursuant to 35 Ill. Adm. Code 724.964; and
- 4) Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960, which must include the following information:
 - A) A list of all information references and sources used in preparing the documentation;
 - B) Records, including the dates, of each compliance test required by 35 Ill. Adm. Code 724.933(j);
 - C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," USEPA publication number EPA-450/2-81-005, incorporated by reference in 35 Ill. Adm. Code 720.111(a) or other engineering texts acceptable to the Agency that present basic control device design information. The design analysis must address the vent stream characteristics and control device operation parameters, as specified in 35 Ill. Adm. Code 724.935(b)(4)(iii);
 - D) A statement signed and dated by the facility owner or operator that certifies that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonable expected to occur; and
 - E) A statement signed and dated by the facility owner or operator that certifies that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 270.310 (2017) ~~(2007)~~.

- e) Air Emissions Control Information ~~emissions control information~~ to Be Maintained ~~be maintained~~ at the Facility ~~facility~~. If the facility owner or operator

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has air emission control equipment subject to SUBPART CC of 35 Ill. Adm. Code 724, it must keep the following information at its facility:

- 1) Documentation for each floating roof cover installed on a tank subject to 35 Ill. Adm. Code 724.984(d)(1) or (d)(2) that includes information that the owner or operator prepared or the cover manufacturer or vendor provided describing the cover design, and the owner's or operator's certification that the cover meets applicable design specifications listed in 35 Ill. Adm. Code 724.984(e)(1) or (f)(1);
- 2) Identification of each container area subject to SUBPART CC of 35 Ill. Adm. Code 724 and the owner's or operator's certification that the requirements of this SUBPART J are met;
- 3) Documentation for each enclosure used to control air pollutant emissions from tanks or containers pursuant to requirements of 35 Ill. Adm. Code 724.984(d)(5) or 724.986(e)(1)(B). The owner or operator must include records for the most recent set of calculations and measurements that it performed to verify that the enclosure meets the criteria of a permanent total enclosure as specified in appendix B to 40 CFR 52.741 (Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure), incorporated by reference in 35 Ill. Adm. Code 720.111(b);
- 4) This subsection (e)(4) corresponds with 40 CFR 270.315(d), which USEPA has marked "Reserved." This statement maintains structural consistency with the corresponding federal rules;
- 5) Documentation for each closed-vent system and control device installed pursuant to 35 Ill. Adm. Code 724.987 that includes design and performance information, as specified in Section 703.210(c) and (d); and
- 6) An emission monitoring plan for both Method 21 in appendix A to 40 CFR 60 (Determination of Volatile Organic Compound Leaks), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and control device monitoring methods. This plan must include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 270.315 (2017)-(2007).

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 703.APPENDIX A Classification of Permit Modifications

Class Modifications

A. General Permit Provisions

- | | | |
|----|----|---|
| 1 | 1. | Administrative and informational changes. |
| 1 | 2. | Correction of typographical errors. |
| 1 | 3. | Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls). |
| | 4. | Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee: |
| 1 | a. | To provide for more frequent monitoring, reporting, or maintenance. |
| 2 | b. | Other changes. |
| | 5. | Schedule of compliance: |
| 1* | a. | Changes in interim compliance dates, with prior approval of the Agency. |
| 3 | b. | Extension of final compliance date. |
| 1* | 6. | Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Agency. |
| 1* | 7. | Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed. |
| 1* | 8. | Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility). |
| 1* | 9. | Changes to remove permit conditions applicable to a unit excluded pursuant to the provisions of 35 Ill. Adm. Code 721.104. |

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1* 10. Changes in the expiration date of a permit issued to a facility at which all units are excluded pursuant to the provisions of 35 Ill. Adm. Code 721.104.

B. General Facility Standards

1. Changes to waste sampling or analysis methods:

1 a. To conform with Agency guidance or Board regulations.

1* b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.

1* c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.

2 d. Other changes.

2. Changes to analytical quality assurance or quality control plan:

1 a. To conform with agency guidance or regulations.

2 b. Other changes.

1 3. Changes in procedures for maintaining the operating record.

2 4. Changes in frequency or content of inspection schedules.

5. Changes in the training plan:

2 a. That affect the type or decrease the amount of training given to employees.

1 b. Other changes.

6. Contingency plan:

2 a. Changes in emergency procedures (i.e., spill or release response procedures).

1 b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.

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- 2 c. Removal of equipment from emergency equipment list.
- 1 d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.

7. CQA plan:

- 1 a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.
- 2 b. Other changes.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as a permit modification.

C. Groundwater Protection

1. Changes to wells:

- 2 a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system.
- 1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.

1* 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.

1* 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.

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- 2 4. Changes in point of compliance.
- 5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs (Alternate Concentration Limits)):
 - 3 a. As specified in the groundwater protection standard.
 - 2 b. As specified in the detection monitoring program.
- 2 6. Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(h), unless otherwise specified in this Appendix.
- 7. Compliance monitoring program:
 - 3 a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(g)(4) and 724.199.
 - 2 b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(j), unless otherwise specified in this Appendix.
- 8. Corrective action program:
 - 3 a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(i)(2) and 724.200.
 - 2 b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.
- D. Closure
 - 1. Changes to the closure plan:
 - 1* a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.
 - 1* b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.

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- 1* c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.
- 1* d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.
- 2 e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.
- 2 f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 35 Ill. Adm. Code 724.213(d) or (e).
- 3 2. Creation of a new landfill unit as part of closure.
- 3 3. Addition of the following new units to be used temporarily for closure activities:
 - 3 a. Surface impoundments.
 - 3 b. Incinerators.
 - 3 c. Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).
 - 2 d. Waste piles that comply with 35 Ill. Adm. Code 724.350(c).
 - 2 e. Tanks or containers (other than specified in paragraph D(3)(f) below).
 - 1* f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Agency.
 - 2 g. Staging piles.
- E. Post-Closure
 - 1 1. Changes in name, address, or phone number of contact in post-closure plan.

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- 2 2. Extension of post-closure care period.
- 3 3. Reduction in the post-closure care period.
- 1 4. Changes to the expected year of final closure, where other permit conditions are not changed.
- 2 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.

F. Containers

- 1 1. Modification or addition of container units:
 - 3 a. Resulting in greater than 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
 - 2 b. Resulting in up to 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
 - 1 c. Modification or addition of container units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new USEPA hazardous waste numbers codes or narrative description of wastes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 2 2. Modification of container units without an increased capacity or alteration of the system:
 - 2 a. Modification of a container unit without increasing the capacity of the unit.
 - 1 b. Addition of a roof to a container unit without alteration of the containment system.
- 3 3. Storage of different wastes in containers, except as provided in F(4):

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- 3 a. That require additional or different management practices from those authorized in the permit.
- 2 b. That do not require additional or different management practices from those authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

- 2* a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 1* b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

G. Tanks

- 1. Modification of a tank unit, secondary containment system, or treatment process that increases tank capacity, adds a new tank, or alters treatment, specified as follows:
 - 3 a. Modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d), and G(1)(e).
 - 2 b. Modification or addition of tank units resulting in up to 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(d) and G(1)(e).

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- 2 c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.
- 1* d. After prior approval of the Agency, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.
- 1* e. Modification or addition of tank units or treatment processes that are necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new USEPA hazardous waste numbers codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 2 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.
- 1 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ± 10 percent of the replaced tank provided:
 - a. The capacity difference is no more than 1500 gallons (5680 l),
 - b. The facility's permitted tank capacity is not increased, and
 - c. The replacement tank meets the same conditions in the permit.
- 2 4. Modification of a tank management practice.
- 2 5. Management of different wastes in tanks:
 - 3 a. That require additional or different management practices, tank design, different fire protection specifications or significantly different tank treatment process from that authorized in the permit, except as provided in paragraph G(5)(c).

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- 2 b. That do not require additional or different management practices or tank design, different fire protection specification, or significantly different tank treatment process than authorized in the permit, except as provided in paragraph G(5)(d).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- 1* c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

- 1 d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

- 3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.

- 3 2. Replacement of a surface impoundment unit.

- 2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.

- 2 4. Modification of a surface impoundment management practice.

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5. Treatment, storage, or disposal of different wastes in surface impoundments:
- 3 a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.
- 2 b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2) (Procedures for Case-by-Case Extensions to an Effective Date), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 1* 6. Modifications of unconstructed units to comply with 35 Ill. Adm. Code 724.321(c), 724.322, 724.323, and 724.326(d).
7. Changes in response action plan:
- 3 a. Increase in action leakage rate.
- 3 b. Change in a specific response reducing its frequency or effectiveness.
- 2 c. Other changes.

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Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

- I. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).

1. Modification or addition of waste pile units:

- 3 a. Resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity.
- 2 b. Resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity.

2 2. Modification of waste pile unit without increasing the capacity of the unit.

1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.

2 4. Modification of a waste pile management practice.

5. Storage or treatment of different wastes in waste piles:

- 3 a. That require additional or different management practices or different design of the unit.
- 2 b. That do not require additional or different management practices or different design of the unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

2 6. Conversion of an enclosed waste pile to a containment building unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

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- 3 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.
- 3 2. Replacement of a landfill.
- 3 3. Addition or modification of a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
- 2 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, runoff control, or final cover system.
- 2 5. Modification of a landfill management practice.
6. Landfill different wastes:
- 3 a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.
- 2 b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).
- 1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2) (Procedures for Case-by-Case Extensions to an Effective Date), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

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- 1* 7. Modification of unconstructed units to comply with 35 Ill. Adm. Code 724.351(c), 724.352, 724.353, 724.354(c), 724.401(c), 724.402, 724.403(c), and 724.404.
- 8. Changes in response action plan:
 - 3 a. Increase in action leakage rate.
 - 3 b. Change in a specific response reducing its frequency or effectiveness.
 - 2 c. Other changes.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

- 3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.
 - 2 2. Modification of runoff control system.
 - 3 3. Modify runoff control system.
 - 2 4. Other modification of land treatment unit component specifications or standards required in permit.
 - 5. Management of different wastes in land treatment units:
 - 3 a. That require a change in permit operating conditions or unit design specifications.
 - 2 b. That do not require a change in permit operating conditions or unit design specifications.
- Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.
- 6. Modification of a land treatment unit management practice to:
 - 3 a. Increase rate or change method of waste application.

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- 1 b. Decrease rate of waste application.
- 2 7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.
- 3 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.
- 3 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).
- 3 10. Changes in the unsaturated zone monitoring system that result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.
- 2 11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.
- 2 12. Changes in background values for hazardous constituents in soil and soil-pore liquid.
- 2 13. Changes in sampling, analysis, or statistical procedure.
- 2 14. Changes in land treatment demonstration program prior to or during the demonstration.
- 1* 15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.

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- 1* 16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.
- 3 17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.
- 2 18. Changes in vegetative cover requirements for closure.
- L. Incinerators, Boilers and Industrial Furnaces
- 3 1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
- 2 2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
- 3 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units; by adding a primary or secondary combustion unit; by substantially changing the design of any component used to remove HCl/Cl₂, metals, or particulate from the combustion gases; or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

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- 2 4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that will not likely affect the capability of the unit to meet the regulatory performance standards but which will change the operating conditions or monitoring requirements specified in the permit. The Agency may require a new trial burn to demonstrate compliance with the regulatory performance standards.
5. Operating requirements:
- 3 a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide or hydrocarbon concentration, maximum temperature at the inlet to the PM emission control system, or operating parameters for the air pollution control system. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.
- 3 b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.
- 2 c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.
6. Burning different wastes:
- 3 a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit, the Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

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10. Changes to RCRA Permit provisions needed to support transition to federal SUBPART EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), provided the procedures of Section 703.280(k) are followed.

M. Containment Buildings

1. Modification or addition of containment building units:

3 a. Resulting in greater than 25 percent increase in the facility's containment building storage or treatment capacity.

2 b. Resulting in up to 25 percent increase in the facility's containment building storage or treatment capacity.

2 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.

3. Replacement of a containment building with a containment building that meets the same design standards provided:

1 a. The unit capacity is not increased.

1 b. The replacement containment building meets the same conditions in the permit.

2 4. Modification of a containment building management practice.

5. Storage or treatment of different wastes in containment buildings:

3 a. That require additional or different management practices.

2 b. That do not require additional or different management practices.

N. Corrective Action

- 3 1. Approval of a corrective action management unit pursuant to 35 Ill. Adm. Code 724.652.

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- 2 2. Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.
- 2 3. Approval of a staging pile or staging pile operating term extension pursuant to 35 Ill. Adm. Code 724.654.

~~O. Burden Reduction~~

- ~~1. This paragraph O.1. corresponds with paragraph O.1. in appendix I to 40 CFR 270.42, 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, note 1 (Mar. 18, 2010). This statement maintains structural consistency with the corresponding federal requirements.~~
- ~~1 2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to 35 Ill. Adm. Code 724.152(b).~~
- ~~1 3. A change to recordkeeping and reporting requirements pursuant to any of the following: 35 Ill. Adm. Code 724.156(i), 724.443(a)(2), 724.961(b)(1) and (d), 724.962(a)(2), 724.296(f), 724.200(g), or 724.213(e)(5).~~
- ~~1 4. A change to inspection frequency for a tank system pursuant to 35 Ill. Adm. Code 724.295(b).~~
- ~~1 5. A change to a detection and compliance monitoring program pursuant to 35 Ill. Adm. Code 724.198(d), (g)(2), (g)(3), or 724.199(f) or (g).~~

Note: * indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from appendix I to 40 CFR 270.42 (2017)-(2012).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: UIC Permit Program
- 2) Code citation: 35 Ill. Adm. Code 704
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
704.101	Amendment
704.102	Amendment
704.106	Amendment
704.122	Amendment
704.123	Amendment
704.124	Amendment
704.129	Amendment
704.141	Amendment
704.142	Amendment
704.145	Amendment
704.147	Amendment
704.148	Amendment
704.149	Amendment
704.150	Amendment
704.161	Amendment
704.162	Amendment
704.163	Amendment
704.181	Amendment
704.186	Amendment
704.189	Amendment
704.192	Amendment
704.193	Amendment
704.202	Amendment
704.212	Amendment
704.214	Amendment
704.215	Amendment
704.216	Amendment
704.218	Amendment
704.219	Amendment
704.260	Amendment
704.263	Amendment
704.279	Amendment
704.282	Amendment
704.283	Amendment
704.284	Amendment
704.285	Amendment

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704.286	Amendment
704.287	Amendment
704.288	Amendment
704.289	Amendment

- 4) Statutory authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 9774; June 15, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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

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subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the June 15, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table in itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.
- 15) Summary and purpose of rulemaking: The amendments to Part 704 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the *Illinois Register*. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 13(c) of the Act (415 ILCS 5/13(c) (2016)) requires the Board to adopt UIC rules that are identical-in-substance to UIC rules adopted by USEPA. The Illinois UIC rules are in 35 Ill. Adm. Code 704, 730, and 738. USEPA did not amend its UIC rules in any way that requires Board action during 2016 or 2017. Rather, the Board reviewed the Illinois UIC rules and finds that non-substantive revisions and corrections are needed in 35 Ill. Adm. Code 704, 730, and 738. *See* 415 ILCS 5/7.2(b) (2016). The Board opened docket R18-31 for this purpose and consolidated it with dockets R17-14, R17-15, and R18-12.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved

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docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 704 incorporate numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4(a)] provide 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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 704
UIC PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

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704.101	Content
704.102	Scope of the Permit or Rule Requirement
704.103	Identification of Aquifers
704.104	Exempted Aquifers
704.105	Specific Inclusions and Exclusions
704.106	Classification of Injection Wells
704.107	Definitions
704.108	Electronic Reporting

SUBPART B: PROHIBITIONS

Section	
704.121	Prohibition Against Unauthorized Injection
704.122	Prohibition Against Movement of Fluid into USDW
704.123	Identification of USDWs and Exempted Aquifers
704.124	Prohibition Against Class IV Injection Wells
704.125	Prohibition Against Non-Experimental Class V Injection Wells for Geologic Sequestration
704.128	Requirements for Class VI Injection Wells
704.129	Transitioning from a Class II Injection Well to a Class VI Injection Well

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY
RULE

Section	
704.141	Existing Class I and III Injection Wells
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704.144	Requirements
704.145	Existing Class IV Injection Wells
704.146	Class V Injection Wells

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- 704.147 Requiring a Permit
- 704.148 Inventory Requirements
- 704.149 Requiring Other ~~other~~ Information
- 704.150 Requirements for Class I and III Injection Wells Authorized by Rule
- 704.151 RCRA Interim Status for Class I Injection Wells

SUBPART D: APPLICATION FOR PERMIT

Section

- 704.161 Application for Permit; Authorization by Permit
- 704.162 Area Permits
- 704.163 Emergency Permits
- 704.164 Signatories to Permit Applications

SUBPART E: PERMIT CONDITIONS

Section

- 704.181 Additional Conditions
- 704.182 Establishing UIC Permit Conditions
- 704.183 Construction Requirements
- 704.184 Corrective Action
- 704.185 Operation Requirements
- 704.186 Hazardous Waste Requirements
- 704.187 Monitoring and Reporting
- 704.188 Plugging and Abandonment
- 704.189 Financial Responsibility
- 704.190 Mechanical Integrity
- 704.191 Additional Conditions
- 704.192 Waiver of Requirements by Agency
- 704.193 Corrective Action
- 704.194 Maintenance and Submission of Records

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS
WASTE

Section

- 704.201 Applicability
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SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I HAZARDOUS
WASTE INJECTION WELLS

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704.210	Applicability
704.211	Definitions
704.212	Cost Estimate for Plugging and Abandonment
704.213	Financial Assurance for Plugging and Abandonment
704.214	Trust Fund
704.215	Surety Bond Guaranteeing Payment
704.216	Surety Bond Guaranteeing Performance
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704.221	Financial Mechanism for Multiple Facilities
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SUBPART H: ISSUED PERMITS

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704.281	Examples of Class V Injection Wells
704.282	Protection of Underground Sources of Drinking Water
704.283	Notification of a Class V Injection Well
704.284	Permit Requirements
704.285	Applicability of the Additional Requirements
704.286	Definitions
704.287	Location in a Groundwater Protection Area or Another Sensitive Area

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- 704.288 Additional Requirements
704.289 Closure of a Class V Injection Well

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478, effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective February 20, 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended in R00-11/R01-1 at 24 Ill. Reg. 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. 11139, effective August 14, 2001; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 605, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1613, effective January 20, 2012; amended in R13-15 at 37 Ill. Reg. 17708, effective October 24, 2013; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 704.101 Content

The regulations in this Subpart A set forth the specific requirements for the UIC (Underground Injection Control) permit program. These rules are intended to implement the UIC permit requirement of Section 12(g) of the ~~Environmental Protection Act (Act)~~ [415 ILCS 5/12(g)]. These rules are intended to be identical in substance to United States Environmental Protection Agency (USEPA) rules found in 40 CFR 144. The regulations in this Subpart A are supplemental to the requirements in 35 Ill. Adm. Code 702, which contains requirements for both the RCRA and UIC permit programs. Operating requirements for injection wells are included in 35 Ill. Adm. Code 730.

BOARD NOTE: Derived from 40 CFR 144.1 (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.102 Scope of the Permit or Rule Requirement

Although six classes of wells are set forth in Section 704.106, the UIC (Underground Injection Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates underground injection for only five classes of wells (see definition of “well injection,” 35 Ill.

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Adm. Code 702.110). Class II wells (Section 704.106(b)) are not subject to the requirements found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells is regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). The owner or operator of a Class I, Class III, Class IV, or Class V injection well must be authorized either by permit or by rule. In carrying out the mandate of the SDWA, this Part provides that no injection may be authorized by permit or by rule if it results in movement of fluid containing any contaminant into underground sources of drinking water (USDWs) (Section 704.122), if the presence of that contaminant may cause a violation of any primary drinking water regulation under 35 Ill. Adm. Code 611, or if the presence of that contaminant may adversely affect the health of persons (Section 704.122). Section 704.124 prohibits the construction, operation, or maintenance of a Class IV injection well. A Class V injection well is regulated under Subpart I of this Part. If remedial action appears necessary for a Class V injection well, an individual permit may be required (Subpart C of this Part) or the Agency must require remedial action or closure by order (see Section 704.122(c)).

BOARD NOTE: Derived from 40 CFR 144.1(g) preamble ~~(2017)~~-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.106 Classification of Injection Wells

Injection wells are classified as follows:

- a) Class I ~~Injection Wells~~ injection wells. Any of the following is a Class I injection well:
 - 1) A well used by a generator of hazardous waste or the owner or operator of a hazardous waste management facility to inject hazardous waste beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.
 - 2) Any other industrial and municipal disposal well that injects fluids beneath the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.
 - 3) A radioactive waste disposal well that injects fluids below the lowermost formation containing a USDW within 402 meters (one-quarter mile) of the well bore.
- b) Class II ~~Injection Wells~~ injection wells. Any well that injects any of the following fluids is a Class II injection well:

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- 1) Fluids that are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and which may be commingled with waste waters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - 2) Fluids injected for enhanced recovery of oil or natural gas; and
 - 3) Fluids injected for storage of hydrocarbons that are liquid at standard temperature and pressure.
- c) Class III Injection Wells ~~injection wells~~. Any well that injects fluids for the extraction of minerals, including the following:
- 1) The mining of sulfur by the Frasch process;
 - 2) The in-situ production of uranium or other metals. This category includes only in-situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included as a Class V injection well; and
 - 3) Solution mining of salts or potash.
- d) Class IV Injection Wells ~~injection wells~~. Any of the following is a Class IV injection well:
- 1) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility or by the owner or operator of a radioactive waste disposal site to dispose of hazardous wastes or radioactive wastes into a formation that contains a USDW within 402 meters (one-quarter mile) of the well.
 - 2) A well used by a generator of hazardous waste or of radioactive waste, by the owner or operator of a hazardous waste management facility, or by the owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation that contains a USDW within 402 meters (one-quarter mile) of the well.
 - 3) A well used by a generator of hazardous waste or the owner or operator of a hazardous waste management facility to dispose of hazardous waste that cannot be classified under any of subsections (a)(1), (d)(1), or (d)(2) ~~of this Section~~ (e.g., a well that is used to dispose of hazardous waste into or

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above a formation that contains an aquifer that has been exempted pursuant to 35 Ill. Adm. Code 730.104).

- e) Class V Injection Wells ~~injection wells~~. Any injection well that is not classified as a Class I, II, III, IV, or VI injection well. Section 704.281 describes specific types of Class V injection wells.
- f) Class VI Injection Wells ~~injection wells~~.
 - 1) An injection well that is not experimental in nature which is used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;
 - 2) An injection well that is used for geologic sequestration of carbon dioxide which has been granted a permit that includes alternative injection well depth requirements pursuant to Section 730.195; or
 - 3) An injection well that is used for geologic sequestration of carbon dioxide which has received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 704.123(d) and 35 Ill. Adm. Code 730.104.

BOARD NOTE: Derived from 40 CFR 144.6 (2017)-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: PROHIBITIONS

Section 704.122 Prohibition Against Movement of Fluid into USDW

- a) No owner or operator may construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into a USDW, if the presence of that contaminant could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141) or could otherwise adversely affect the health of persons. The applicant for a permit has the burden of showing that the requirement of this subsection (a) is met.
- b) For a Class I, III, or VI injection well, if any water quality monitoring of a USDW indicates the movement of any contaminant into the USDW, except as authorized under 35 Ill. Adm. Code 730, the Agency must prescribe such additional requirements for construction, corrective action, operation, monitoring or

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reporting (including closure of the injection well) as are necessary to prevent such movement. In the case of a well authorized by permit, these additional requirements must be imposed by modifying the permit in accordance with 35 Ill. Adm. Code 702.183 through 702.185, or appropriate enforcement action may be taken if the permit has been violated, and the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists. In the case of wells authorized by rule, see Section 704.141 through 704.146.

- c) For a Class V injection well, if at any time the Agency learns that a Class V injection well could cause a violation of any national primary drinking water regulation under 35 Ill. Adm. Code 611 (derived from 40 CFR 141), it must undertake one of the following actions:
 - 1) It must require the injector to obtain an individual permit;
 - 2) It must issue a permit that requires the injector to take such actions (including, where necessary, closure of the injection well) as may be necessary to prevent the violation; or
 - 3) It may initiate enforcement action.
- d) Whenever the Agency learns that a Class V injection well may be otherwise adversely affecting the health of persons, it may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under subsection (c) ~~of this Section~~.
- e) Notwithstanding any other provision of this Section, the Agency may take emergency action upon receipt of information that a contaminant that is present in or is likely to enter a public water system or a USDW may present an imminent and substantial endangerment to the health of persons. The Agency may declare an emergency and affix a seal pursuant to Section 34 of the Act ~~[415 ILCS 5/34]~~.

BOARD NOTE: Derived from 40 CFR 144.12 ~~(2011)~~ (2017).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.123 Identification of USDWs and Exempted Aquifers

- a) The Agency may identify (by narrative description, illustrations, maps, or other means) and must protect as a USDW, any aquifer or part of an aquifer that meets the definition of a USDW set forth in 35 Ill. Adm. Code 702.110, except as one of the exceptions of subsections (a)(1) and (a)(2) ~~of this Section~~ applies. Other than

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Agency-approved aquifer exemption expansions that meet the criteria set forth in 35 Ill. Adm. Code 730.104, a new aquifer exemption must not be issued for a Class VI injection well. Even if an aquifer has not been specifically identified by the Agency, it is a USDW if it meets the definition in 35 Ill. Adm. Code 702.110. Identification of USDWs must be made according to criteria adopted by the Agency pursuant to 35 Ill. Adm. Code 702.106.

- 1) The Agency may not identify an aquifer or part of an aquifer as a USDW to the extent that there is an applicable aquifer exemption under subsection (b) ~~of this Section.~~
 - 2) The Agency may not identify an aquifer or part of an aquifer as a USDW to the extent that the aquifer or part of an aquifer is an expansion to the areal extent of an existing Class II enhanced oil recovery or is subject to an enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration under subsection (d) ~~of this Section.~~
- b) Identification of an Exempted Aquifer ~~exempted aquifer.~~
- 1) The Agency may identify (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, any aquifer or part of an aquifer that the Agency desires the Board to designate as an exempted aquifer using the criteria in 35 Ill. Adm. Code 730.104, as described in this subsection (b).
 - 2) No designation of an exempted aquifer may be final until approved by USEPA as part of the State program.
 - 3) Subsequent to program approval, the Board may identify additional exempted aquifers.
 - 4) Identification of exempted aquifers must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act ~~[415 ILCS 5/27 and 28]~~, considering the criteria set forth in 35 Ill. Adm. Code 730.104.
- c) For a Class III injection well, an applicant for a permit that necessitates an aquifer exemption under 35 Ill. Adm. Code 730.104(b)(1) must furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project,

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such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone must be considered by the Board in addition to the information required by Section 704.161(c). Approval of the exempted aquifer must be by rulemaking pursuant to 35 Ill. Adm. Code 102 and 702.105 and Sections 27 and 28 of the Act [~~415 ILCS 5/27 and 28~~]. Rules will not become final until approved by USEPA as a program revision.

- d) Expansion to the Areal Extent of Existing Class II Aquifer Exemptions for Class VI Wells. The owner or operator of a Class II enhanced oil recovery or enhanced gas recovery well may request that the Agency approve an expansion to the areal extent of an aquifer exemption already in place for a Class II enhanced oil recovery or enhanced gas recovery well for the exclusive purpose of Class VI injection for geologic sequestration. A request for areal expansion must be treated as a revision to the applicable federal UIC program under 40 CFR 147 or as a substantial program revision to an approved state UIC program under 40 CFR 145.32 and will not be final until approved by USEPA.
 - 1) The request for an expansion of the areal extent of an existing aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration must define (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts of aquifers that are requested to be designated as exempted using the criteria in 35 Ill. Adm. Code 730.104.
 - 2) In making a determination to expand the areal extent of an aquifer exemption of a Class II enhanced oil recovery or enhanced gas recovery well for the purpose of Class VI injection, the Agency must determine that the request meets the criteria for exemptions in 35 Ill. Adm. Code 730.104. In evaluating a request, the Agency must consider:
 - A) Any current and potential future use of the USDWs to be exempted as drinking water resources;
 - B) The predicted extent of the injected carbon dioxide plume, and any mobilized fluids that may result in degradation of water quality, over the lifetime of the geologic sequestration project, as informed by computational modeling performed pursuant to 35 Ill. Adm. Code 730.184(c)(1), in order to ensure that the proposed injection

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operation will not at any time endanger USDWs including non-exempted portions of the injection formation;

- C) Whether the areal extent of the expanded aquifer exemption is of sufficient size to account for any possible revisions to the computational model during reevaluation of the area of review, pursuant to 35 Ill. Adm. Code 730.184(e); and
- D) Any information submitted to support a request by the owner or operator for a permit that includes alternative injection well depth requirements pursuant to 35 Ill. Adm. Code 730.195, if appropriate.

BOARD NOTE: Derived from 40 CFR 144.7 (2017)-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.124 Prohibition Against Class IV Injection Wells

- a) The following are prohibited, except as provided in subsection (c) ~~of this Section~~:
 - 1) The construction of any Class IV injection well.
 - 2) The operation or maintenance of any Class IV injection well.
 - 3) Any increase in the amount of hazardous waste or change in the type of hazardous waste injected into a Class IV injection well.
- b) A Class IV injection well must comply with the requirements of Section 704.203 and the Class IV injection well closure requirements of Section 704.145.
- c) A well used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was originally drawn is not prohibited by this Section if such injection is approved by the Agency pursuant to provisions in the Act for preventive or corrective action, by the USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9601 et seq.), by USEPA pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.), or by the Agency pursuant to Section 39 of the Act ~~[415 ILCS 5/39]~~.
- d) Clarification. This Section does not prohibit any of the following injection wells:

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- 1) A well used to inject hazardous waste into an aquifer or a portion of an aquifer that has been exempted pursuant to 35 Ill. Adm. Code 730.104 if the exempted aquifer into which waste is injected underlies the lowermost formation containing a USDW. Such a well is a Class I injection well, as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I injection well.
- 2) A well used to inject hazardous waste where no USDW exists within one quarter mile of the well bore in any underground formation, provided that the Agency determines that such injection is into a formation sufficiently isolated to ensure that injected fluids do not migrate from the injection zone. Such a well is a Class I injection well, as specified in Section 704.106(a)(1), and the owner or operator must comply with the requirements applicable to a Class I injection well.

BOARD NOTE: Derived from 40 CFR 144.13 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.129 Transitioning from a Class II Injection Well to a Class VI Injection Well

- a) The owner or operator of a Class II injection well that is injecting carbon dioxide into an oil and gas reservoir for the primary purpose of long-term storage must apply for and obtain a Class VI injection well geologic sequestration permit when there is an increased risk to a USDW compared to usual Class II injection well operations. In determining if there is an increased risk to a USDW, the owner or operator must consider the factors specified for Agency consideration in subsection (b) ~~of this Section~~.
- b) The Agency must determine when there is an increased risk to a USDW from injecting carbon dioxide into an oil and gas reservoir for the primary purpose of long-term storage compared to usual Class II injection well operations and that a Class VI injection well permit is required. In order to make this determination, the Agency must consider the following factors:
 - 1) Any increase in reservoir pressure within the injection zones;
 - 2) Any increase in carbon dioxide injection rates;
 - 3) Any decrease in reservoir production rates;
 - 4) The distance between the injection zones and USDWs;

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- 5) The suitability of the Class II injection well area of review delineation;
- 6) The quality of abandoned well plugs within the area of review;
- 7) The owner's or operator's plan for recovery of carbon dioxide after the cessation of injection;
- 8) The source and properties of injected carbon dioxide; and
- 9) Any additional site-specific factors that the Agency determines are necessary to determine whether the injection poses greater risk than usual Class II operations.

BOARD NOTE: Derived from 40 CFR 144.19 ~~(2017)~~-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY
RULE

Section 704.141 Existing Class I and III Injection Wells

Authorization by rule is no longer possible for Class I or Class III injection wells. The owners or operators of Class I and Class III injection wells were required by 40 CFR 144.21(c)(8)(i) to submit a permit application before March 3, 1989 (five years after the effective date of USEPA authorization of the Illinois program).

- a) ~~Injection into an existing Class I or Class III injection well is authorized by rule if the owner or operator fulfills either of the conditions of subsection (a)(1) or (a)(2) of this Section, subject to subject (a)(3) of this Section:~~
 - 1) ~~It injected into the existing well within one year after March 3, 1984, or~~
 - 2) ~~It inventories the well pursuant to Section 704.148.~~
 - 3) ~~The owner or operator of a well that is authorized by rule pursuant to this Section must rework, operate, maintain, convert, plug, abandon, or inject into the well in compliance with applicable regulations.~~
- b) ~~Class III injection wells in existing fields or projects. Notwithstanding the prohibition in Section 704.121, this Section authorizes Class III injection wells or projects in existing fields or projects to continue normal operations until permitted, including construction, operation, and plugging and abandonment of~~

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~~wells as part of the operation provided the owner or operator maintains compliance with all applicable requirements.~~

BOARD NOTE: Derived from 40 CFR 144.21(a) and (d) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.142 Prohibitions Against Injection into Wells Authorized by Rule

An owner or operator of a well authorized by rule pursuant to this Subpart C is prohibited from injecting into the well on the occurrence of any of the following:

- a) Upon the effective date of an applicable permit denial;
- b) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;
- c) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148;
- d) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149;
- e) Upon a failure to provide alternative financial assurance pursuant to Section 704.150(d)(6);
- f) 48 hours after receipt of a determination by the Agency pursuant to Section 704.150(f)(3) that the well lacks mechanical integrity, unless the Agency orders immediate cessation pursuant to Section 34 of the Act or as ordered by a court pursuant to Section 43 of the Act ~~[415 ILCS 5/43]; or~~
- g) Upon receipt of notification from the Agency that the transferee has not demonstrated financial assurance pursuant to Section 704.150(d);
- ~~h) For Class I and Class III injection wells: after March 3, 1989, unless a timely and complete permit application for a permit was pending the Agency's decision; or~~
- ~~i) This subsection (i) corresponds with 40 CFR 144.21(c)(9), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.~~

BOARD NOTE: Derived from 40 CFR 144.21(c) ~~(2017)~~-(2011).

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.145 Existing Class IV Injection Wells

- a) Injection into a Class IV injection well, as defined in Section 704.106(d)(1), is not authorized. The owner or operator of any such well must comply with Sections 704.124 and 704.203.
- b) Closure.
 - 1) Prior to abandoning any Class IV injection well, the owner or operator must plug or otherwise close the well in a manner acceptable to the Agency.
 - 2) ~~The By September 27, 1986, the~~ owner and operator of any Class IV injection well ~~must submit was to have submitted~~ to the Agency a plan for plugging or otherwise closing and abandoning the well.
 - 3) The owner or operator of a Class IV injection well must notify the Agency of intent to abandon the well at least 30 days prior to abandonment.
- c) Notwithstanding subsections (a) and (b) ~~of this Section~~, an injection well that is used to inject contaminated groundwater that has been treated and which is being injected into the same formation from which it was drawn is authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by USEPA pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9601 et seq.), by USEPA pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.), or by the ~~the~~ Agency pursuant to Section 39 of the Act ~~[415 ILCS 5/39]~~.

BOARD NOTE: Derived from 40 CFR 144.23 ~~(2017)~~ ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.147 Requiring a Permit

- a) The Agency may require the owner or operator of any ~~Class I, Class III, or Class V~~ injection well that is authorized by rule under this Subpart C to apply for and obtain an individual or area UIC permit. Cases where individual or area UIC permits may be required include the following:

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- 1) The injection well is not in compliance with any requirement of this Subpart C;

BOARD NOTE: Any underground injection that violates any rule under this Subpart C is subject to appropriate enforcement action.

- 2) The injection well is not or no longer is within the category of wells and types of well operations authorized in the rule;
- 3) The protection of USDWs requires that the injection operation be regulated by requirements, such as for corrective action, monitoring and reporting, or operation, that are not contained in this Subpart C;~~;~~
- 4) ~~When the injection well is a Class I or Class III injection well, in accordance with a schedule established by the Agency pursuant to Section 704.161(b).~~

- b) The Agency may require the owner or operator of any well that is authorized by rule under this Subpart C to apply for an individual or area UIC permit under this subsection (b) only if the owner or operator has been notified in writing that a permit application is required. The owner or operator of a well that is authorized by rule is prohibited from injecting into the well on the occurrence of either of the circumstances of subsection (b)(1) or (b)(2) ~~of this Section~~, subject to subsection (b)(3) ~~of this Section~~.

- 1) Upon the effective date of a permit denial; or
- 2) Upon the failure of the owner or operator to submit an application in a timely manner as specified in the notice.
- 3) The notice must include all of the following:
 - A) A brief statement of the reasons for this decision;
 - B) An application form;
 - C) A statement setting a time for the owner or operator to file the application; and
 - D) A statement of the consequences of denial or issuance of the permit, or failure to submit an application, as described in this subsection (b).

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- c) An owner or operator of a well that is authorized by rule may request to be excluded from the coverage of the rule by applying for an individual or area UIC permit. The owner or operator must submit to the Agency an application under Section 704.161 with reasons supporting the request. The Agency may grant any such request.

BOARD NOTE: Derived from 40 CFR 144.25 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.148 Inventory Requirements

The owner or operator of an injection well that is authorized by rule under this Subpart C must submit inventory information to the Agency. Such an owner or operator is prohibited from injecting into the well upon failure to submit inventory information for the well to the Agency within the time frame specified in subsection (d) ~~of this Section~~.

- a) Contents. As part of the inventory, the owner or operator must submit at least the following information:
- 1) The facility name and location;
 - 2) The name and address of legal contact;
 - 3) The ownership of facility;
 - 4) The nature and type of injection wells; and
 - 5) The operating status of injection wells.

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

- b) Additional ~~Contents~~ ~~contents~~. The owner or operator of a well listed in subsection (b)(1) ~~of this Section~~ must provide the information listed in subsection (b)(2) ~~of this Section~~.
- 1) This Section applies to the following wells:
 - A) Corresponding 40 CFR 144.26(b)(1)(i) pertains to Class II injection wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act ~~[225 ILCS 725]~~

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(see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;

- B) Class IV injection wells;
- C) The following types of Class V injection wells:
 - i) A sand or other backfill well, 35 Ill. Adm. Code 730.105(e)(8);
 - ii) A radioactive waste disposal well that is not a Class I injection well, 35 Ill. Adm. Code 730.105(e)(11);
 - iii) A geothermal energy recovery well, 35 Ill. Adm. Code 730.105(e)(12);
 - iv) A brine return flow well, 35 Ill. Adm. Code 730.105(e)(14);
 - v) A well used in an experimental technology, 35 Ill. Adm. Code 730.105(e)(15);
 - vi) A municipal or industrial disposal well other than a Class I injection well; and
 - vii) Any other Class V injection well, at the discretion of the Agency.
- 2) The owner or operator of a well listed in subsection (b)(1) of this Section must provide a listing of all wells owned or operated setting forth the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)
 - A) Corresponding 40 CFR 144.26(b)(2)(i) pertains to Class II wells, which are regulated by the Department of Natural Resources pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). This statement maintains structural consistency with the corresponding federal provisions;
 - B) The location of each well or project given by Township, Range, Section, and Quarter-Section;

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- C) The date of completion of each well;
 - D) Identification and depth of the formations into which each well is injecting;
 - E) The total depth of each well;
 - F) The casing and cementing record, tubing size, and depth of packer;
 - G) The nature of the injected fluids;
 - H) The average and maximum injection pressure at the wellhead;
 - I) The average and maximum injection rate; and
 - J) The date of the last mechanical integrity tests, if any.
- c) This subsection (c) corresponds with 40 CFR 144.26(c), a provision relating to USEPA notification to facilities upon authorization of the state's program. This statement maintains structural consistency with USEPA rules.
- d) The owner or operator of a new Class V injection well must submit inventory information prior to starting injection.~~Deadlines. The owner or operator of an injection well must submit inventory information no later than March 3, 1985. The Agency need not require inventory information from any facility with RCRA interim status under 35 Ill. Adm. Code 703.~~
- e) The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.~~Deadlines for a Class V injection well.~~
- 1) ~~The owner or operator of a Class V injection well in which injection took place before March 3, 1985, and who failed to submit inventory information for the well within the time specified in subsection (d) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume or that it may resume sooner.~~

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- 2) ~~The owner or operator of a Class V injection well in which injection started later than March 3, 1985, must submit inventory information prior to May 2, 1995.~~
- 3) ~~The owner or operator of a Class V injection well in which injection started after May 2, 1994 must submit inventory information prior to starting injection.~~
- 4) ~~The owner or operator of a Class V injection well prohibited from injecting for failure to submit inventory information for the well within the time specified in subsection (e)(2) or (e)(3) of this Section may resume injection 90 days after submittal of the inventory information to the Agency, unless the owner or operator receives notice from the Agency that injection may not resume, or that it may resume sooner.~~

BOARD NOTE: A well that was in existence as of March 3, 1984, was required to submit inventory information by March 3, 1985. Since all wells other than a Class V injection ~~wells are well is now~~ either prohibited or required to file a permit application, the inventory requirement will apply only to a new Class V injection ~~wells well~~.

BOARD NOTE: Derived from 40 CFR 144.26 ~~(2017)-(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.149 Requiring Other ~~other~~ Information

- a) In addition to the inventory requirements of Section 704.148, the Agency may require the owner or operator of any well authorized by rule under this Subpart C to submit information as deemed necessary by the Agency to determine whether a well may be endangering a USDW in violation of Section 704.122.
- b) Such information requirements may include, but are not limited to the following:
 - 1) Performance of groundwater monitoring and the periodic submission of reports of such monitoring;
 - 2) An analysis of injected fluids, including periodic submission of such analyses; and
 - 3) A description of the geologic strata through and into which injection is taking place.

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- c) Any request for information under this Section must be made in writing, and include a brief statement of the reasons for requiring the information. An owner or operator must submit the information within the time periods provided in the notice.
- d) An owner or operator of an injection well authorized by rule under this Subpart C is prohibited from injecting into the well upon failure of the owner or operator to comply with a request for information within the time period specified by the Agency pursuant to subsection (c) ~~of this Section~~. An owner or operator of a well prohibited from injection under this Section may not resume injection, except under a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.

BOARD NOTE: Derived from 40 CFR 144.27 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.150 Requirements for Class I and III Injection Wells Authorized by Rule

The following requirements apply to the owner or operator of a Class I or Class III well authorized by rule under this Subpart C, as provided by Section 704.144.

- a) The owner or operator must comply with all applicable requirements of this Subpart C and with Sections 704.121, 704.122, 704.124, 704.201, 704.202, and 704.203. Any noncompliance with these requirements constitutes a violation of the Act and SDWA and is grounds for enforcement action, except that the owner or operator need not comply with these requirements to the extent and for the duration such noncompliance is authorized by an emergency permit under Section 704.163.
- b) ~~Twenty-Four Hour Reporting~~Twenty-four hour reporting. The owner or operator must report any noncompliance that may endanger health or the environment, including either of the events described in subsection (b)(1) or (b)(2) ~~of this Section~~, subject to the conditions of subsection (b)(3) ~~of this Section~~:
 - 1) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; or
 - 2) Any noncompliance or malfunction of the injection system that may cause fluid migration into or between USDWs.

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- 3) Any information must be provided orally within 24 hours from the time the owner or operator becomes aware of the circumstances. A written submission must also be provided within five days of the time the owner or operator becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- c) ~~Plugging and Abandonment Plan~~Abandonment plan.
- 1) The owner or operator must prepare, maintain, and comply with a plan for plugging and abandonment of the wells or project that meets the requirements of 35 Ill. Adm. Code 730.110. For purposes of this subsection (c), temporary intermittent cessation of injection operations is not abandonment.
 - 2) Submission of Plan~~plan~~.
 - A) The owner or operator must submit the plan on any forms prescribed by the Agency.
 - B) The owner or operator must submit any proposed significant revision to the method of plugging reflected in the plan no later than the notice of plugging required by subsection (i)~~of this Section~~ (i.e., 45 days prior to plugging, unless shorter notice is approved).
 - C) The plan must include the following information:
 - i) The nature and quantity and material to be used in plugging;
 - ii) The location and extent (by depth) of the plugs;
 - iii) Any proposed test or measurement to be made;
 - iv) The amount, size, and location (by depth) of casing to be left in the well;
 - v) The method and location where casing is to be parted; and

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- vi) The estimated cost of plugging the well.
- D) After a cessation of operations of two years, the owner or operator must plug and abandon the well in accordance with the plan, unless the owner or operator performs both of the following actions:
 - i) It provides written notice to the Agency; and
 - ii) It describes actions or procedures, satisfactory to the Agency that the owner or operator will take to ensure that the well will not endanger a USDW during the period of temporary abandonment. These actions and procedures must include compliance with the technical requirements applicable to active injection wells, unless the operator obtains regulatory relief in the form of a variance or adjusted standard from the technical requirements pursuant to 35 Ill. Adm. Code 104 and Title IX of the Act ~~[415 ILCS 5/Title IX]~~.
- E) The owner or operator of any well that has been temporarily abandoned (ceased operations for more than two years and which has met the requirements of subsections (c)(2)(D)(i) and (c)(2)(D)(ii)) ~~of this Section~~ must notify the Agency in writing prior to resuming operation of the well.
- d) Financial Responsibility ~~responsibility~~.
 - 1) The owner or operator or transferor of a Class I or Class III injection well is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner acceptable to the Agency until one of the following has occurred:
 - A) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code 730.110 and submission of a plugging and abandonment report has been made pursuant to subsection (k) ~~of this Section~~;
 - B) The well has been converted in compliance with subsection (j) ~~of this Section~~; or

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- C) The transferor has received notice from the Agency that the transferee has demonstrated financial responsibility for the well. The owner or operator must show evidence of such financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as a financial statement.
- 2) The owner or operator must submit evidence of financial responsibility to the Agency ~~was to have submitted such evidence no later than March 3, 1985.~~ Where the ownership or operational control of the well is to transfer ~~was transferred later than March 3, 1985,~~ the transferee must submit such evidence no later than the date specified in the notice required pursuant to subsection (1)(2) ~~of this Section.~~
- 3) The Agency may require the owner or operator to submit a revised demonstration of financial responsibility if the Agency has reason to believe that the original demonstration is no longer adequate to cover the cost of closing, plugging, and abandoning the well.
- 4) The owner or operator of a well injecting hazardous waste must comply with the financial responsibility requirements of Subpart G ~~of this Part.~~
- 5) An owner or operator must notify the Agency by certified mail of the commencement of any voluntary or involuntary proceeding under Title 11 (Bankruptcy) of the United States Code that names the owner or operator as debtor, within 10 business days after the commencement of the proceeding. Any party acting as guarantor for the owner or operator for the purpose of financial responsibility must so notify the Agency if the guarantor is named as debtor in any such proceeding.
- 6) In the event of commencement of a proceeding specified in subsection (d)(5) ~~of this Section,~~ an owner or operator that has furnished a financial statement for the purpose of demonstrating financial responsibility pursuant to this Section will be deemed to be in violation of this subsection (d) until an alternative financial assurance demonstration acceptable to the Agency is provided either by the owner or operator or by its trustee in bankruptcy, receiver, or other authorized party. All parties must be prohibited from injecting into the well until such alternative financial assurance is provided.
- e) This subsection (e) corresponds with 40 CFR 144.28(e), which pertains exclusively to enhanced recovery and hydrocarbon storage wells (Class II wells). Those wells are regulated by the Illinois Department of Natural Resources, Office

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of Mines and Minerals, rather than by the Board and the Agency. This statement maintains structural consistency with USEPA rules.

- f) ~~Operating Requirements requirements.~~
- 1) No person must cause or allow injection between the outermost casing protecting USDWs and the well bore.
 - 2) Maintenance of Mechanical Integrity ~~mechanical integrity.~~
 - A) The owner or operator of a Class I or Class III injection well authorized by rule under this Subpart C must establish and maintain mechanical integrity, as defined in 35 Ill. Adm. Code 730.106, until either of the following has occurred:
 - i) The well is properly plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to subsection (c) ~~of this Section~~ and 35 Ill. Adm. Code 730.110 and a plugging and abandonment report is submitted pursuant to subsection (k); or
 - ii) The well is converted in compliance with subsection (j) ~~of this Section.~~
 - B) The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.
 - 3) Cessation upon Lack of Mechanical Integrity.
 - A) When the Agency determines that a Class I (non-hazardous) or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108, the Agency must give written notice of its determination to the owner or operator.
 - B) Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency's determination.
 - C) The Agency may allow plugging of the well in accordance with 35 Ill. Adm. Code 730.110, or require the owner or operator to perform such additional construction, operation, monitoring,

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reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity.

- D) The owner or operator may resume injection upon receipt of written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 4) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection if the owner or operator has made a satisfactory demonstration that there is no movement of fluid into or between USDWs.
- 5) For a Class I injection well, unless an alternative to a packer has been approved under 35 Ill. Adm. Code 730.112(c), the owner or operator must fill the annulus between the tubing and the long string of casings with a fluid approved by the Agency and maintain a pressure, also approved by the Agency, on the annulus. The owner or operator of a Class I well completed with tubing and packer must fill the annulus between tubing and casing with a non-corrosive fluid and maintain a positive pressure on the annulus. For any other Class I injection well, the owner or operator must insure that the alternative completion method will reliably provide a comparable level of protection of USDWs.
- 6) Injection ~~Pressure~~ pressure for Class I and III Injection Wells ~~injection wells~~.
 - A) Except during stimulation, the owner or operator must not exceed an injection pressure at the wellhead that must be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the injection zone; and
 - B) The owner or operator must not inject at a pressure that will initiate fractures in the confining zone or cause the movement of injection or formation fluids into a USDW.
- g) Monitoring Requirements. The owner or operator must perform the monitoring as described in this subsection (g). Monitoring of the nature of the injected fluids must comply with applicable analytical methods cited in tables IA (List of Approved Biological Methods), IB (List of Approved Inorganic Test Procedures),

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IC (List of Approved Test Procedures for Non-Pesticide Organic Compounds), ID (List of Approved Test Procedures for Pesticides), IE (List of Approved Radiologic Test Procedures), and IF (List of Approved Methods for Pharmaceutical Pollutants) of 40 CFR 136.3 (Identification of Test Procedures) or in appendix III of 40 CFR 261 (Chemical Analysis Test Methods), each incorporated by reference in 35 Ill. Adm. Code 720.111(b), or with other methods that have been approved by the Agency.

- 1) The owner or operator of a Class I injection well must undertake the following actions:
 - A) It must analyze the nature of the injected fluids with sufficient frequency to yield data representative of their characteristics;
 - B) It must install and use continuous recording devices to monitor injection pressure, flow rate and volume, and the pressure on the annulus between the tubing and the long string of casing; and
 - C) It must install and use monitoring wells within the area of review, if required by the Agency, to monitor any migration of fluids into and pressure in the USDWs. The type, number, and location of the wells; the parameters to be measured; and the frequency of monitoring must be approved by the Agency.
- 2) This subsection (g)(2) corresponds with 40 CFR 144.28(g)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.
- 3) The owner or operator of a Class III injection well must undertake the following actions:
 - A) It must provide to the Agency a qualitative analysis and ranges in concentrations of all constituents of injected fluids at least once within the first year of authorization and thereafter whenever the injection fluid is modified to the extent that the initial data are incorrect or incomplete.
 - i) The owner or operator may request confidentiality pursuant to Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.

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- ii) If the information is proprietary the owner or operator may in lieu of the ranges in concentrations choose to submit maximum concentrations that must not be exceeded.
 - iii) In such a case the owner or operator must retain records of the undisclosed concentration and provide them upon request to the Agency as part of any enforcement investigation;
 - B) It must monitor injection pressure and either flow rate or volume semi-monthly, or meter and record daily injected and produced fluid volumes as appropriate;
 - C) It must monitor the fluid level in the injection zone semi-monthly, where appropriate; and
 - D) All Class III injection wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates to the Agency that manifold monitoring is comparable to individual well monitoring.
- h) Reporting Requirements ~~requirements~~. The owner or operator must submit reports to the Agency as follows:
- 1) For a Class I injection well, quarterly reports on all of the following:
 - A) The physical, chemical, and other relevant characteristics of the injection fluids;
 - B) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure;
 - C) The results from groundwater monitoring wells prescribed in subsection (f)(1)(C) ~~of this Section~~;
 - D) The results of any test of the injection well conducted by the owner or operator during the reported quarter if required by the Agency; and

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- E) Any well work over performed during the reported quarter.
- 2) This subsection (h)(2) corresponds with 40 CFR 144.28(h)(2), a provision related to Class II injection wells, which are regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, and not by the Board. This statement maintains structural consistency with USEPA rules.
- 3) For a Class III injection well, all of the following:
 - A) Quarterly reporting on all monitoring, as required in subsections (f)(2)(A), (f)(2)(B), and (f)(2)(C) ~~of this Section~~;
 - B) Quarterly reporting of the results of any periodic tests required by the Agency that are performed during the reported quarter; and
 - C) Monitoring may be reported on a project or field basis rather than an individual well basis where manifold monitoring is used.
- i) Retention of Records ~~records~~. The owner or operator must retain records of all monitoring information, including the following:
 - 1) Calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this section, for a period of at least three years from the date of the sample, measurement or report. This period may be extended by request of the Agency at any time; and
 - 2) The nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188. The owner or operator must retain the records after the three year retention period unless it delivers the records to the Agency or obtains written approval from the Agency to discard the records.
- j) Notice of Abandonment ~~abandonment~~. The owner or operator must notify the Agency at least 45 days before conversion or abandonment of the well.
- k) Plugging and Abandonment Report ~~abandonment report~~. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report must be

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submitted within 60 days. The report must be certified as accurate by the person who performed the plugging operation. Such report must consist of either:

- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency; or
 - 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan, on any form supplied by the Agency, specifying the different procedures used.
- 1) ~~Change of Ownership-ownership.~~
- 1) The owner or operator must notify the Agency of a transfer of ownership or operational control of the well at least 30 days in advance of the proposed transfer.
 - 2) The notice must include a written agreement between the transferor and the transferee containing a specific date when the financial responsibility demonstration of subsection (d) ~~of this Section~~ will be met by the transferee.
 - 3) The transferee is authorized to inject unless it receives notification from the Agency that the transferee has not demonstrated financial responsibility pursuant to subsection (d) ~~of this Section~~.
- m) Requirements for a Class I Hazardous Waste Injection Well ~~hazardous waste injection well~~. The owner or operator of any Class I injection well injecting hazardous waste must comply with Section 704.203. In addition the owner or operator must properly dispose of, or decontaminate by removing all hazardous waste residues, all injection well equipment.

BOARD NOTE: Derived from 40 CFR 144.28 (2017) ~~(2012)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATION FOR PERMIT

Section 704.161 Application for Permit; Authorization by Permit

- a) Permit Application-application. Unless an underground injection well is authorized by rule under Subpart C ~~of this Part~~, all injection activities, including construction of an injection well, are prohibited until the owner or operator is

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authorized by permit. An owner or operator of a well currently authorized by rule must apply for a permit under this Section unless the well authorization was for the life of the well or project. Authorization by rule for a well or project for which a permit application has been submitted terminates for the well or project upon the effective date of the permit. Procedures for application, issuance, and administration of emergency permits are found exclusively in Section 704.163. A RCRA permit applying the standards of Subpart C of 35 Ill. Adm. Code 724 will constitute a UIC permit for hazardous waste injection wells for which the technical standards in 35 Ill. Adm. Code 730 are not generally appropriate.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 144.31(a) (2017)-(2005).

- b) Time to Apply ~~apply~~. Any person ~~that~~ who performs or proposes an underground injection for which a permit ~~was or will be required~~ must submit an application to the Agency. For new injection wells, except new wells covered by an existing area permit under Section 704.162(c), the application must be filed a reasonable time before construction is expected to begin, as follows:
- 1) ~~For existing wells, the application was to have been filed before the applicable of the following deadlines:~~
 - A) ~~Within 180 days after the Agency notifies such person that an application is required;~~
 - B) ~~If the waste being injected into the well is a hazardous waste accompanied by a manifest or delivery document, before August 1, 1984; or~~
 - C) ~~Except as otherwise provided in subsections (b)(1)(A) and (b)(1)(B) of this Section, before March 3, 1986.~~
 - 2) ~~For new injection wells, except new wells in projects authorized under Section 704.141(b) or covered by an existing area permit under Section 704.162(c), the application must be filed a reasonable time before construction is expected to begin.~~

BOARD NOTE: Subsection (b) ~~of this Section~~ is derived from 40 CFR 144.31(c) (2017)-(2005).

- c) Contents of UIC Application ~~application~~. The applicant must demonstrate that the underground injection will not endanger drinking water sources. The form

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and content of the UIC permit application may be prescribed by the Agency, including the materials required by 35 Ill. Adm. Code 702.123.

- d) Information Requirements ~~requirements~~ for a Class I Hazardous Waste Injection Well ~~hazardous waste injection well~~.
- 1) The following information is required for each active Class I hazardous waste injection well at a facility seeking a UIC permit:
 - A) The dates the well was operated; and
 - B) Specification of all wastes that have been injected into the well, if available.
 - 2) The owner or operator of any facility containing one or more active hazardous waste injection wells must submit all available information pertaining to any release of hazardous waste or constituents from any active hazardous waste injection well at the facility.
 - 3) The owner or operator of any facility containing one or more active Class I hazardous waste injection wells must conduct such preliminary site investigations as are necessary to determine whether a release is occurring, has occurred, or is likely to have occurred.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 144.31(g) ~~(2017)-(2005)~~.

- e) In addition to the materials required by 35 Ill. Adm. Code 702.123, the applicant must provide the following:
- 1) It must identify and submit on a list with the permit application the names and addresses for all owners of record of land within one-quarter mile (401 meters) of the facility boundary. This requirement may be waived by the Agency where the site is located in a populous area such that the requirement would be impracticable; and
 - 2) It must submit a plugging and abandonment plan that meets the requirements of 35 Ill. Adm. Code 730.110.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 144.31(e)(9) and (e)(10) ~~(2017)-(2005)~~.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.162 Area Permits

- a) The Agency may issue a permit on an area basis, rather than for each injection well individually, provided that the permit is for injection wells for which each of the following is true:
 - 1) The injection wells are described and identified by location in permit applications, if they are existing injection wells, except that the Agency may accept a single description of multiple injection wells with substantially the same characteristics;
 - 2) The injection wells are within the same well field, facility site, reservoir, project, or similar unit in the same state;
 - 3) The injection wells are operated by a single owner or operator;
 - 4) The injection wells are used to inject other than hazardous waste; and
 - 5) The injection wells are other than Class VI injection wells.
- b) Area permits must specify both of the following:
 - 1) The area within which underground injections are authorized; and
 - 2) The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.
- c) The area permit may authorize the permittee to construct and operate, convert, or plug and abandon new injection wells within the permit area provided the following conditions are fulfilled:
 - 1) The permittee notifies the Agency at such time as the permit requires;
 - 2) The additional well satisfies the criteria in subsection (a) ~~of this Section~~ and meets the requirements specified in the permit under subsection (b) ~~of this Section~~; and
 - 3) The cumulative effects of drilling and operation of additional injection wells are considered by the Agency during evaluation of the area permit application and are acceptable to the Agency.

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- d) If the Agency determines that any well constructed pursuant to subsection (c) ~~of this Section~~ does not satisfy the requirements of subsections (c)(1) and (c)(2) ~~of this Section~~, the Agency may modify the permit under 35 Ill. Adm. Code 702.183 through 702.185, seek revocation under 35 Ill. Adm. Code 702.186, or take enforcement action. If the Agency determines that cumulative effects are unacceptable, the permit may be modified under 35 Ill. Adm. Code 702.183 through 702.185.

BOARD NOTE: Derived from 40 CFR 144.33 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.163 Emergency Permits

- a) Coverage. Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, the Agency may temporarily permit a specific underground injection if an imminent and substantial threat to the health of persons will result unless a temporary emergency permit is granted.
- b) Requirements for Issuance ~~issuance~~.
- 1) Any temporary permit under subsection (a) ~~of this Section~~ must be for no longer term than required to prevent the threat.
 - 2) Notice of any temporary permit under this subsection (b) must be published in accordance with 35 Ill. Adm. Code 705.163 within 10 days after the issuance of the permit.
 - 3) The temporary permit under this section may be either oral or written. If oral, it must be followed within five calendar days by a written temporary emergency permit.
 - 4) The Agency must condition the temporary permit in any manner it determines is necessary to ensure that the injection will not result in the movement of fluids into a USDW.

BOARD NOTE: Derived from 40 CFR 144.34 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART E: PERMIT CONDITIONS

Section 704.181 Additional Conditions

The following conditions apply to all UIC permits, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, and these conditions must be incorporated into all permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

- a) In addition to 35 Ill. Adm. Code 702.141 (duty to comply): the permittee needs not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in a temporary emergency permit under Section 704.163.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 144.51(a) (2017)-(2011).

- b) In addition to 35 Ill. Adm. Code 702.150(b) (monitoring and records): the permittee must retain records concerning the nature and composition of all injected fluids until three years after the completion of any plugging and abandonment procedures specified under Section 704.188 or under Subpart G of 35 Ill. Adm. Code 730, as appropriate. The owner or operator must continue to retain the records after the three-year retention period, unless the owner or operator delivers the records to the Agency or obtains written approval from the Agency to discard the records.

BOARD NOTE: Subsection (b) of this Section is derived from 40 CFR 144.51(j)(2)(ii) (2017)-(2011).

- c) In addition to 35 Ill. Adm. Code 702.152(a) (notice of planned changes), the following limitation applies: except for all new wells authorized by an area permit under Section 704.162(c), a new injection well may not commence injection until construction is complete, and both of the following must occur:
 - 1) The permittee must have submitted notice of completion of construction to the Agency; and
 - 2) Inspection review must have occurred, as follows:
 - A) The Agency has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

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- B) The permittee has not received notice from the Agency of its intent to inspect or otherwise review the new injection well within 13 days of the date of the notice in subsection (c)(1) ~~of this Section~~, in which case prior inspection or review is waived, and the permittee may commence injection. The Agency must include in its notice a reasonable time period in which it will inspect the well.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 144.51(m) (2017) ~~(2011)~~.

d) Reporting Noncompliance ~~noncompliance~~.

- 1) Twenty-four hour reporting. The permittee must report any noncompliance that may endanger health or the environment, including the following:
- A) Any monitoring or other information that indicates that any contaminant may cause an endangerment to a USDW; and
- B) Any noncompliance with a permit condition or malfunction of the injection system that may cause fluid migration into or between USDWs.
- 2) Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission must also be provided within five days after the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates, times, and, if the noncompliance has not been corrected, the anticipated time is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance of the noncompliance.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 144.51(l)(6) (2017) ~~(2011)~~.

- e) The permittee must notify the Agency at such times as the permit requires before conversion or abandonment of the well or, in the case of area permits, before closure of the project.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 144.51(n) (2017) ~~(2011)~~.

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- f) A Class I or Class III injection well permit must include, and a Class V permit may include, conditions that meet the applicable requirements of 35 Ill. Adm. Code 730.110 to ensure that plugging and abandonment of the well will not allow the movement of fluids into or between USDWs. Where the plan meets the requirements of 35 Ill. Adm. Code 730.110, the Agency must incorporate the plan into the permit as a permit condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate, the Agency may require the applicant to revise the plan, prescribe conditions meeting the requirements of this subsection (f), or deny the permit. A Class VI injection well permit must include conditions that meet the requirements set forth in 35 Ill. Adm. Code 730.192. Where the plan meets the requirements of 35 Ill. Adm. Code 730.192, the Agency must incorporate the plan into the permit as a permit condition. For purposes of this subsection (f), temporary or intermittent cessation of injection operations is not abandonment.

BOARD NOTE: Subsection (f) of this Section is derived from 40 CFR 144.51(o) (2017)-(2011).

- g) Plugging and Abandonment Report ~~abandonment report~~. Within 60 days after plugging a well or at the time of the next quarterly report (whichever is less) the owner or operator must submit a report to the Agency. If the quarterly report is due less than 15 days before completion of plugging, then the report must be submitted within 60 days. The report must be certified as accurate by the person who performed the plugging operation. Such report must consist of either of the following:
- 1) A statement that the well was plugged in accordance with the plan previously submitted to the Agency;
 - 2) Where actual plugging differed from the plan previously submitted, an updated version of the plan on the form supplied by the Agency specifying the differences.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 144.51(p) (2017)-(2011).

- h) Duty to Establish ~~establish~~ and Maintain Mechanical Integrity ~~maintain mechanical integrity~~.
- 1) The owner or operator of a Class I Class III, or Class VI injection well permitted under this Part and 35 Ill. Adm. Code 702 must establish mechanical integrity prior to commencing injection or on a schedule

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determined by the Agency. Thereafter the owner or operator of a Class I, Class II, or Class III injection well must maintain mechanical integrity as required by 35 Ill. Adm. Code 730.108, and the owner or operator of a Class VI injection well must maintain mechanical integrity as required by Section 730.189. The Agency may require by permit condition that the owner or operator comply with a schedule describing when mechanical integrity demonstrations must be made.

- 2) When the Agency determines that a Class I or Class III injection well lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108 or 730.189 (for a Class VI injection well), the Agency must give written notice of its determination to the owner or operator. Unless the Agency requires immediate cessation, the owner or operator must cease injection into the well within 48 hours of receipt of the Agency determination. The Agency may allow plugging of the well pursuant to 35 Ill. Adm. Code 730.110 or require the permittee to perform such additional construction, operation, monitoring, reporting, and corrective action as is necessary to prevent the movement of fluid into or between USDWs caused by the lack of mechanical integrity. The owner or operator may resume injection upon written notification from the Agency that the owner or operator has demonstrated mechanical integrity pursuant to 35 Ill. Adm. Code 730.108.
- 3) The Agency may allow the owner or operator of a well that lacks mechanical integrity pursuant to 35 Ill. Adm. Code 730.108(a)(1) to continue or resume injection, if the owner or operator has made a satisfactory showing that there is no movement of fluid into or between USDWs.

BOARD NOTE: Subsection (h) ~~of this Section~~ is derived from 40 CFR 144.51(q) ~~(2017)-(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.186 Hazardous Waste Requirements

UIC permits must require by condition requirements for wells managing hazardous waste, as set forth in Subpart F ~~of this Part~~.

BOARD NOTE: Derived from 40 CFR 144.52(a)(4) ~~(2017)-(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 704.189 Financial Responsibility

- a) The permittee, including the transferor of a permit, is required to demonstrate and maintain financial responsibility and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the Agency until one of the following occurs:
 - 1) The well has been plugged and abandoned in accordance with an approved plugging and abandonment plan pursuant to Section 704.181(f) and 35 Ill. Adm. Code 730.110 and 730.192, and the permittee has submitted a plugging and abandonment report pursuant to Section 704.181(g);
 - 2) The well has been converted in compliance with Section 704.181(e); or
 - 3) The transferor of a permit has received notice from the Agency that the owner or operator receiving transfer of the permit (the new permittee) has demonstrated financial responsibility for the well.

- b) The permittee must show evidence of financial responsibility to the Agency by the submission of a surety bond or other adequate assurance, such as financial statements or other materials acceptable to the Agency. The Agency may on a periodic basis require the holder of a life-time permit to submit an estimate of the resources needed to plug and abandon the well revised to reflect inflation of such costs, and a revised demonstration of financial responsibility if necessary. For a Class VI injection well, the permittee must show evidence of financial responsibility to the Agency by the submission of an instrument that fulfills the requirements of 35 Ill. Adm. Code 730.185(a), such as a financial statement or other materials necessary for an Agency evaluation of the adequacy of the submitted financial assurance.

- c) The owner or operator of a Class I hazardous waste injection well must comply with the financial responsibility requirements set forth in Subpart G of this Part. The owner or operator of a Class VI injection well must comply with the financial responsibility requirements set forth in 35 Ill. Adm. Code 730.185.

BOARD NOTE: Derived from 40 CFR 144.52(a)(7) ~~(2017)~~-(2011).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 704.192 Waiver of Requirements by Agency

- a) When injection does not occur into, through, or above a USDW, the Agency may authorize a well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into a USDW.
- b) When injection occurs through or above a USDW, but the radius of endangering influence when computed under 35 Ill. Adm. Code 730.106(a) is smaller or equal to the radius of the well, the Agency may authorize a well or project with less stringent requirements for operation, monitoring, and reporting than required in 35 Ill. Adm. Code 730 or Sections 704.182 through 704.191 to the extent that the reduction in requirements will not result in an increased risk of movement of fluids into a USDW.
- c) When reducing requirements under subsection (a) or (b) ~~of this Section~~, the Agency must prepare a fact sheet under 35 Ill. Adm. Code 705.143 explaining the reasons for the action.

BOARD NOTE: Derived from 40 CFR 144.16 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.193 Corrective Action

- a) Coverage. An applicant for a Class I or Class III injection well permit must identify the location of all known wells within the injection well's area of review that penetrate the injection zone. For such wells that are improperly sealed, completed, or abandoned, the applicant must also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into USDWs ("corrective action"). Where the plan is adequate, the Agency must incorporate it into the permit as a condition. Where the Agency's review of an application indicates that the permittee's plan is inadequate (based on the factors in 35 Ill. Adm. Code 730.107), the Agency must require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subsection (b) ~~of this Section~~, or deny the application.
- b) Requirements-

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- 1) Existing Injection Wells~~injection wells~~. Any permit issued for an existing injection well requiring corrective action must include a compliance schedule requiring any corrective action accepted or prescribed under subsection (a) ~~of this Section~~ to be completed as soon as possible.
- 2) New Injection Wells~~injection wells~~. No permit for a new injection well may authorize injection until all required corrective action has been taken.
- 3) Injection pressure limitation. The Agency may require as a permit condition that injection pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation must satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.
- 4) Class III Injection Wells Only~~injection wells only~~. When setting corrective action requirements the Agency must consider the overall effect of the project on the hydraulic gradient in potentially affected USDWs and the corresponding changes in potentiometric surfaces and flow directions rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in 35 Ill. Adm. Code 730.133(b) must be designed to verify the validity of such determinations.

BOARD NOTE: Derived from 40 CFR 144.55 (2017)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: REQUIREMENTS FOR WELLS INJECTING HAZARDOUS
WASTE

Section 704.202 Authorization

The owner or operator of any well that is used to inject hazardous wastes accompanied by a manifest or delivery document is ~~was~~ required to apply for authorization to inject, ~~as specified in Section 704.161(b)(1)(B), before August 2, 1984.~~

BOARD NOTE: Derived from 40 CFR 144.14(b) (2017)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I HAZARDOUS
WASTE INJECTION WELLS

Section 704.212 Cost Estimate for Plugging and Abandonment

- a) The owner or operator must prepare a written estimate, in current dollars, of the cost of plugging the injection well in accordance with the plugging and abandonment plan, as specified in Sections 704.150 and 704.181(f). The cost estimate must equal the cost of plugging and abandonment at the point in the facility's operating life when the extent and manner of its operation would making plugging and abandonment the most expensive, as indicated by its plan.
- b) The owner or operator must adjust the cost estimate for inflation within 30 days after each anniversary of the date on which the first cost estimate was prepared. The adjustment must be made as specified in subsections (b)(1) and (b)(2) ~~of this Section~~, using an inflation factor derived from the annual update to "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]" published by the U.S. Department of Treasury. The inflation factor is the result of dividing the latest published annual Index by the Index for the previous years.
 - 1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.
 - 2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

BOARD NOTE: Corresponding 40 CFR 144.62(b) cites "Oil and Gas Field Equipment Cost Index" without attribution of its source. The Board has located a publication entitled "Oil and Gas Lease Equipment and Operating Costs 1987 to [Date]". It is assembled by the U.S. Department of Energy, Energy Information Administration. It is available only on the Internet at www.eia.doe.gov. The Board replaced the federally cited reference with this document. The full link for the document (in March 2006) is as follows:
http://www.eia.doe.gov/pub/oil_gas/natural_gas/data_publications/cost_indices_equipment_production/current/coststudy.html.

- c) The owner or operator must review the cost estimate whenever a change in the plan increases the cost of plugging and abandonment. The revised 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 cost estimate prepared in accordance with subsections

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(a) and (c) ~~of this Section~~ and, when this estimate has been adjusted in accordance with subsection (b) ~~of this Section~~, the latest adjusted cost estimate.

BOARD NOTE: Derived from 40 CFR 144.62 ~~(2017)~~ ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.214 Trust Fund

- a) An owner or operator may satisfy the financial assurance requirement by establishing a trust fund that conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency. An owner or operator of a Class I injection well injecting hazardous waste must submit the original, signed duplicate of the trust agreement to the Agency with the permit application or for approval to operate under rule. 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.
- b) The wording of the trust agreement must be as specified in Section 704.240, and the trust agreement must be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.
- c) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the injection well as estimated in the plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period:". The payments into the trust fund must be made as follows:
 - 1) For a new well, the first payment must be made before the initial injection of hazardous waste. The owner or operator must submit a receipt to the Agency from the trustee for this payment before the initial injection of hazardous waste. The first payment must be at least equal to the current cost estimate, except as provided in Section 704.240, divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \frac{\text{PE} - \text{CV}}{\text{YR}}$$

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Where:

PE is the current cost estimate

CV is the current value of the trust fund

Y is the number of years remaining in the pay-in period.

- 2) If an owner or operator establishes a trust fund as specified in this Section, and the value of that trust fund is less than the current cost estimate when a permit is issued for the injection well, the amount of current cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (c) ~~of this Section~~. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to this Part. The amount of each payment must be determined by this formula:

$$\text{Next Payment} = \frac{\text{PE} - \text{CV}}{\text{YR}}$$

Where:

PE is the current cost estimate

CV is the current value of the trust fund

Y is the number of years remaining in the pay-in period.

- d) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current 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 (c) ~~of this Section~~.
- e) If the owner or operator establishes a trust fund after having used one or more alternate financial assurance mechanisms, 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 according to specifications of this Section.
- f) After the pay-in period is completed, whenever the current cost estimate changes the owner or operator must compare the new estimate with the trustee's most

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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 cost estimate, or obtain other financial assurance to cover the difference.

- g) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current cost estimate.
- h) If an owner or operator substitutes other financial assurance 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 cost estimate covered by the trust fund.
- i) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (g) or (h) ~~of this Section~~, the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
- j) After beginning final plugging and abandonment, an owner and operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency must determine whether the plugging and abandonment expenditures are in accordance with the plan or otherwise justified, and if so, it must instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the value of the trust fund, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222 that the owner or operator is no longer required to maintain financial assurance.
- k) The Agency must agree to termination of the trust when either of the following occurs:
 - 1) The owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from 40 CFR 144.63(a) ~~(2017)-(2005)~~.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.215 Surety Bond Guaranteeing Payment

- a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency with the application for a permit or for approval to operate under rule. The bond must be effective before the initial injection of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

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

- b) The wording of the surety bond must be as specified in Section 704.240.
- c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond must 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 Section 704.214, except that the following limitations apply:
- 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - 2) Until the standby trust fund is funded pursuant to this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.

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- d) The bond must guarantee that the owner or operator will fulfill the following requirements:
 - 1) It will fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of plugging and abandonment of the injection well;
 - 2) It will fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin plugging and abandonment is issued by the Board or a U.S. district court or other court of competent jurisdiction; or
 - 3) It will provide alternate financial assurance, 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.
- e) 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.
- f) The penal sum of the bond must be in amount at least equal to the current cost estimate, except as provided in Section 704.220.
- g) Whenever the current 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 cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) 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 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent based on receipt of evidence of alternate financial assurance.

BOARD NOTE: Derived from 40 CFR 144.63(b) (2017)-(2005).

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.216 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency with the permit application or for approval to operate under rule. The bond must be effective before injection of hazardous waste is started. 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 as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <http://www.fms.treas.gov/c570/>.

- b) The wording of the surety bond must be as specified in Section 704.240.
- c) The owner or operator who uses a surety bond to satisfy the financial assurance requirement must also establish a standby trust fund. All payments made under the terms of the bond must 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 Section 704.214, except that the following limitations apply:
- 1) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - 2) Until the standby trust fund is funded pursuant to this Section, the following are not required:
 - A) Payments into the trust fund as specified in Section 704.214;
 - B) Updating of Schedule A of the trust agreement to show current cost estimates;
 - C) Annual valuations as required by the trust agreement; and
 - D) Notices of non-payment as required by the trust agreement.

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- d) The bond must guarantee that the owner or operator will fulfill the following requirements:
 - 1) It will perform plugging and abandonment in accordance with the plan and other requirements of the permit for the injection well whenever required to do so; or
 - 2) It will provide alternate financial assurance, 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.
- e) 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. Following a determination that the owner or operator has failed to perform plugging and abandonment in accordance with the plan and other permit requirements when required to do so, under terms of the bond the surety must perform plugging and abandonment as guaranteed by the bond or must deposit the amount of the penal sum into the standby trust fund.
- f) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
- g) Whenever the current 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 cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.
- h) 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 120 days beginning on the date of the receipt of the notice of cancellation by both owner or operator and the Agency as evidenced by the returned receipts.
- i) The owner or operator may cancel the bond if the Agency has given prior written consent. The Agency must provide such written content when either of the following occurs:
 - 1) An owner or operator substitute alternate financial assurance; or

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- 2) The Agency releases the owner or operator in accordance with Section 704.222.

- j) The surety will not be liable for deficiencies in the performance of plugging and abandonment by the owner or operator after the Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from 40 CFR 144.63(c) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.218 Plugging and Abandonment Insurance

- a) An owner or operator may satisfy the financial assurance requirement by obtaining insurance that conforms to this Section and submitting a certificate of such insurance to the Agency. An owner or operator of a new injection well must submit the certificate of insurance to the Agency with the permit application or for approval operate under rule. The insurance must be effective before injection starts. 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.

- b) The wording of the certificate of insurance must be as specified in Section 704.240.

- c) The policy must be issued for a face amount at least equal to the current cost estimate, except as provided in Section 704.220. 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.

- d) The policy must guarantee that funds will be available whenever final plugging and abandonment occurs. The policy must also guarantee that once plugging and abandonment 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.

- e) After beginning plugging and abandonment, an owner or operator or any other person authorized to perform plugging and abandonment may request reimbursement for plugging and abandonment expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for plugging and abandonment activities, the Agency must determine whether the plugging and

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abandonment expenditures are in accordance with the plan or otherwise justified, and if so, it must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing. If the Agency has reason to believe that the cost of plugging and abandonment will be significantly greater than the face amount of the policy, it may withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with Section 704.222, that the owner or operator is no longer required to maintain financial assurance for plugging and abandonment of the injection well.

- f) 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 (j) ~~of this Section~~. Failure to pay the premium, without substitution of alternate financial assurance, will constitute a significant violation of these regulations, warranting such remedy as the Agency deems necessary. 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 non-payment of the premium, rather than upon the date of expiration.
- g) Each policy must contain provisions allowing assignment to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- h) 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 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 of 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 any of the following occurs:
 - 1) The Agency deems the injection well abandoned;
 - 2) The permit is terminated or revoked or a new permit is denied;
 - 3) Plugging and abandonment is ordered by the Board, a U.S. district court, or any other court of competent jurisdiction;

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- 4) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
 - 5) The premium due is paid.
- i) Whenever the current 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 cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the Agency.
- j) 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:
- 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.

BOARD NOTE: Derived from 40 CFR 144.63(e) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.219 Financial Test and Corporate Guarantee

- a) An owner or operator may satisfy the financial assurance requirement by demonstrating that the owner or operator passes a financial test as specified in this Section. To pass this test the owner or operator must meet the criteria of either subsection (a)(1) or (a)(2) ~~of this Section~~:
- 1) The owner or operator must have each of the following:
 - A) 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;
 - B) Net working capital and tangible net worth each at least six times the sum of the current cost estimate;

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- C) A tangible net worth of at least \$10 million; and
 - D) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimate.
- 2) The owner or operator must have each of the following:
- A) A current rating for the owner or operator's most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - B) A tangible net worth at least six times the sum of the current cost estimate;
 - C) A tangible net worth of at least \$10 million; and
 - D) Assets located in the United States amounting to at least 90 percent of the owner or operator's total assets or at least six times the sum of the current cost estimates.
- b) The phrase "current cost estimate" as used in subsection (a) ~~of this Section~~ refers to the cost estimate required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer, as specified in Section 704.240.
- c) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Agency:
- 1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 704.240;
 - 2) 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
 - 3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that the following are true:
 - A) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the

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independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

- B) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
- d) An owner or operator of a new injection well must submit the items specified in subsection (c) ~~of this Section~~ 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 (c) ~~of this Section~~.
- e) After the initial submission of items specified in subsection (c) ~~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 (c) ~~of this Section~~.
- f) If the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must send notice to the Agency intent to establish alternate financial assurance. 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.
- g) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) ~~of this Section~~, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (c) ~~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 (a), the owner or operator must provide alternate financial assurance within 30 days after notification of such a finding.
- h) 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 (c)(2) ~~of this Section~~). An adverse opinion or 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 within 30 days after notification of the disallowance.

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- i) The owner or operator is no longer required to submit the items specified in subsection (c) ~~of this Section~~ when either of the following occurs:
- 1) An owner or operator substitutes alternate financial assurance; or
 - 2) The Agency releases the owner or operator in accordance with Section 704.222.
- j) 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 parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (a) through (h) ~~of this Section~~ and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be as specified in Section 704.240. The corporate guarantee must accompany the items sent to the Agency, as specified in subsection (c) ~~of this Section~~. The terms of the corporate guarantee must provide that the following limitations apply:
- 1) If the owner or operator fails to perform plugging and abandonment of the injection well covered by the corporate guarantee in accordance with the plan and other permit requirements whenever required to do so, the guarantor must do so or establish a trust fund, as specified in Section 704.214 in the name of the owner or operator.
 - 2) The corporate guarantee must remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and the Agency, as evidenced by the return receipts. 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.
 - 3) If the owner or operator fails to provide alternate financial assurance 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 must provide such alternative financial assurance in the name of the owner or operator.

BOARD NOTE: Derived from 40 CFR 144.63(f) (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART H: ISSUED PERMITS

Section 704.260 Transfer

- a) Transfer by ~~Modification~~ modification. Except as provided in subsection (b) ~~of this Section~~, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under Sections 704.261 through 704.264) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate Act. The new owner or operator to whom the permit is transferred must comply with all the terms and conditions specified in such permit.
- b) Automatic transfers. As an alternative to transfers under subsection (a) ~~of this Section~~, any UIC permit for a well not injecting hazardous or injecting carbon dioxide for geologic sequestration waste may be automatically transferred to a new permittee if each of the following conditions are fulfilled:
- 1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date in subsection (b)(2) ~~of this Section~~;
 - 2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them and the notice demonstrates that the financial responsibility requirements of Section 704.189 will be met by the new permittee and that the new permittee agrees to comply with all the terms and conditions specified in the permit to be transferred under this subsection (b) ~~of this Section~~; and
 - 3) The Agency does not notify the existing permittee and the proposed new permittee of its intent to modify or reissue the permit. A modification under this subsection (b) may also be a minor modification under Section 704.264. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in subsection (b)(2) ~~of this Section~~.

BOARD NOTE: Derived from 40 CFR 144.38 (2017) ~~(2011)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.263 Well Siting

Suitability of the well location must not be considered at the time of permit modification unless new information or standards indicate that a threat to human health or the environment exists that

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was unknown at the time of permit issuance or unless required under the Act ~~[415 ILCS 5]~~. However, certain modifications may require site location suitability approval pursuant to Section 39.2 of the Act ~~[415 ILCS 5/39.2]~~.

BOARD NOTE: Derived from 40 CFR 144.39(c) ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section 704.279 General

This Subpart I sets forth the requirements applicable to the owner or operator of a Class V injection well. Additional requirements listed elsewhere in this Part may also apply. Where they may apply, those other requirements are referenced rather than repeated in this Subpart I. The requirements described in this Subpart I and elsewhere in this Part are intended to protect USDWs and are part of the UIC program established under Section 13(c) of the Act ~~[415 ILCS 5/13(e)]~~.

BOARD NOTE: Derived from 40 CFR 144.79 ~~(2017)~~-(2005). USEPA wrote corresponding subpart G of 40 CFR 144 in a question-and-answer format to make it easier to understand the regulatory requirements. The Board has abandoned that format in favor of a more traditional approach of using clear statements of the requirements and their applicability.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment of the USDW, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730, that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

- a) Prohibition of Fluid Movement ~~fluid movement~~.
 - 1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may

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cause a violation of other health-based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.

- 2) If the Agency learns that an owner's or operator's injection activity may endanger a USDW, the Agency may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).
- b) Closure ~~Requirements~~ requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to its well in accordance with all applicable federal, State, and local regulations and requirements.
- c) Other ~~Requirements~~ requirements in this Part and 35 Ill. Adm. Code 702 and 730. Beyond this Subpart I, the owner and operator are subject to other UIC program requirements in this Part and 35 Ill. Adm. Code 702 and 730. While most of the relevant requirements are repeated or referenced in this Subpart I for convenience, the owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to fully understand the entire UIC program.
- d) Other State ~~Requirements~~ requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency has the flexibility to establish additional or more stringent requirements based on the authorities in this Part, 35 Ill. Adm. Code 702 and 730, and the Act [415 ILCS 5], if such additional requirements are determined to be necessary to protect USDWs. The owner and operator must comply with any such additional requirements. The owner or operator should contact the Agency to learn more.

BOARD NOTE: Derived from 40 CFR 144.82 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.283 Notification of a Class V Injection Well

The owner or operator of a Class V injection well needs to provide basic "inventory information" about its well to the Agency, if the owner or operator has not done so already. The owner or operator also needs to provide any additional information that the Agency requests in accordance with the provisions of the UIC regulations.

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- a) ~~Inventory Requirements~~ ~~requirements~~. Unless the owner or operator knows it has already satisfied the inventory requirements in Section 704.128 that were in effect prior to the issuance of this Subpart I, the owner or operator must give the Agency certain information about itself and its injection operation.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on national form "Inventory of Injection Wells," USEPA Form 7520-16, incorporated by reference in 35 Ill. Adm. Code 720.111(a). Although USEPA Form 7520-16 is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

- 1) The owner or operator of a new or existing Class V injection well must contact the Agency to determine what information it must submit and by when it must submit that information.
- 2) The following is the information that the owner or operator must submit:
 - A) No matter what type of Class V injection well is owned or operated, the owner or operator must submit at least the following information for each Class V injection well:
 - i) The facility name and location;
 - ii) The name and address of a legal contact person for the facility;
 - iii) The ownership of the facility;
 - iv) The nature and type of the injection well or wells; and
 - v) The operating status of the injection well or wells.
 - B) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.
 - C) The owner or operator must provide a list of all wells it owns or operates, along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

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- i) The location of each well or project given by Township, Range, Section, and Quarter-Section, according to the U.S. Land Survey System;
 - ii) The date of completion of each well;
 - iii) The identification and depth of the underground formations into which each well is injecting;
 - iv) The total depth of each well;
 - v) A construction narrative and schematic (both plan view and cross-sectional drawings);
 - vi) The nature of the injected fluids;
 - vii) The average and maximum injection pressure at the wellhead;
 - viii) The average and maximum injection rate; and
 - ix) The date of the last inspection.
- 3) The owner and operator is responsible for knowing about, understanding, and complying with these inventory requirements.
- b) Illinois is designated a "Primacy State" by USEPA. Corresponding 40 CFR 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.83 (2017)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.284 Permit Requirements

No permit is required for a Class V injection well, unless the owner or operator falls within an exception described in subsection (b) ~~of this Section~~.

- a) General Authorization ~~authorization by Rule~~ rule. With certain exceptions listed in subsection (b) ~~of this Section~~, an owner's or operator's Class V injection activity is "authorized by rule," meaning that the owner and operator has to

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comply with all the requirements of this Subpart I and the rest of this Part and 35 Ill. Adm. Code 702 and 730, but the owner or operator does not need to get an individual permit. Well authorization expires once the owner or operator has properly closed its well, as described in Section 704.282(b).

- b) Circumstances in Which Permits ~~which permits or~~ Other Actions Are Required ~~other actions are required~~. If an owner or operator fits into one of the categories listed below, its Class V injection well is no longer authorized by rule. This means that the owner or operator has to either get a permit or close its injection well. The owner or operator can find out whether its well falls into one of these categories by contacting the Agency. Subparts D and H ~~of this Part~~ tell an owner or operator how to apply for a permit and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm. Code 702 and Subpart E ~~of this Part~~ outline some of the requirements that apply to the owner or operator if it gets a permit. An owner or operator must either obtain a permit or close its injection well if any of the following is true:

- 1) The owner or operator fails to comply with the prohibition against fluid movement in Section 704.122(a) and described in Section 704.282(a) (in which case, the owner or operator must get a permit, close its well, or comply with other conditions determined by the Agency);
- 2) The Class V injection well is a large-capacity cesspool (in which case, the owner or operator must close its well as specified in the additional requirements set forth in Section 704.288) or the Class V injection well is a motor vehicle waste disposal well in a groundwater protection area or a sensitive groundwater area (in which case, the owner or operator must either close its well or get a permit, as specified in the additional requirements set forth in Section 704.288). New motor vehicle waste disposal wells and new cesspools are prohibited;

BOARD NOTE: A new motor vehicle waste disposal well or a new cesspool is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.84(a)(2).

- 3) The owner or operator is specifically required by the Agency to get a permit (in which case, the authorization by rule expires on the effective date of the permit issued, or the owner or operator is prohibited from injecting into its well upon the occurrence of either of the following:

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- A) The failure of the owner and operator to submit a permit application in a timely manner, as specified in a notice from the Agency; or
- B) The effective date of a permit denial; or
- 4) The owner or operator has failed to submit inventory information to the Agency, as described in Section 704.283(a) (in which case, the owner and operator is prohibited from injecting into the well until it complies with the inventory requirements).
- 5) Illinois is designated a “Primacy State” by USEPA. Corresponding 40 CFR 144.84(b)(5) relates exclusively to “Direct Implementation” states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.84 (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.285 Applicability of the Additional Requirements

- a) ~~Large-Capacity Cesspools~~~~Large capacity cesspools~~. The additional requirements set forth in Section 704.288 apply to a new and existing large-capacity cesspool. If the owner or operator is using a septic system for these type of wastes, the owner or operator is not subject to the additional requirements in Section 704.288.
- b) ~~Motor Vehicle Waste Disposal Wells Existing vehicle waste disposal wells existing~~ on April 5, 2000. If the owner or operator has a Class V motor vehicle waste disposal well, the additional requirements in Section 704.288 apply to that owner or operator if the well is located in a ground water protection area or other sensitive ground water area that is identified by the Agency, the Board, or USEPA Region 5.

BOARD NOTE: An existing motor vehicle waste disposal well is one for which construction had commenced prior to April 5, 2000. See 40 CFR 144.83(a)(1)(i) and (a)(1)(ii), as added at 64 Fed. Reg. 68568 (December 7, 1999). Corresponding 40 CFR 144.85(b) provides that the additional requirements apply Statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has not included this Statewide applicability provision by virtue of 14.1 through 14.6 and Sections 17.1 through 17.4 of the Act

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~~[415 ILCS 5/14.1-14.6 and 17.1-17.4]~~, Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620.

- c) New Motor Vehicle Waste Disposal Wells. The additional requirements in Section 704.288 apply to a new motor vehicle waste disposal well.

BOARD NOTE: A new motor vehicle waste disposal well is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.85(c) (2005).

BOARD NOTE: Derived from 40 CFR 144.85 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.286 Definitions

“State drinking water source assessment and protection program” is a new approach to protecting drinking water sources, specified in section 1453 of the 1996 Amendments to the Safe Drinking Water Act (42 USC 300j-13).

BOARD NOTE: Under the federal requirements, states must prepare and submit for USEPA approval a program that sets out how each state must conduct local assessments, including the following: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination. The Illinois Groundwater Protection Act ~~[415 ILCS 55]~~ and the regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act ~~[415 ILCS 14.1-14.6 and 17.1-17.4]~~ and the regulations at 35 Ill. Adm. Code 615 through 617 adopted under those provisions are major segments of the required Illinois program.

“Complete local source water assessment for groundwater protection areas.”: When USEPA has approved a state’s drinking water source assessment and protection program, the state must begin to conduct local assessments for each public water system in that state. For the purposes of this Subpart I, local assessments for community water systems and non-transient non-community systems are complete when the four following requirements are met:

The State must delineate the boundaries of the assessment area for community and non-transient non-community water systems, as such are defined in 35 Ill. Adm. Code 611.101;

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The State must identify significant potential sources of contamination in these delineated areas;

The State must determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants; and

The Agency must make the completed assessments available to the public.

BOARD NOTE: The Agency administers the "Illinois Source Water Assessment and Protection Program," which is intended to comply with the federal source water assessment requirements of SDWA Section 1453 (42 USC 300j-13).

"Groundwater protection area" is a geographic area near or surrounding a community or non-transient non-community water system, as defined in 35 Ill. Adm. Code 611.101, that uses groundwater as a source of drinking water. For the purposes of this Subpart I, the Board considers a "setback zone," as defined in Section ~~3.450~~ ~~3.61~~ of the Act [~~415 ILCS 5/3.61~~] and regulated pursuant to Sections 14.1 through 14.6 of the Act [~~415 ILCS 5/14.1-14.6~~], to be a "groundwater protection area," as intended by corresponding 40 CFR 144.86(c). (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the protection of drinking water supplies and federal law requires the State to delineate and assess these areas under section 1453 of the federal Safe Drinking Water Act, 42 USC 300j-13. The additional requirements in Section 704.288 apply to an owner or operator if its Class V motor vehicle waste disposal well is in a groundwater protection area for either a community water system or a non-transient non-community water system.

BOARD NOTE: USEPA stated in corresponding 40 CFR 144.86(c) that in many states these areas will be the same as wellhead protection areas delineated as described in section 1428 of the federal SDWA (42 USC 300h-7).

"Community water system," as defined in 35 Ill. Adm. Code 611.101, is a public water system that serves at least 15 service connections used by year-round residents or which regularly serves at least 25 year-round residents.

"Non-transient, non-community water system," as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

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“Delineation:”. Once the State’s drinking water source assessment and protection program is approved by USEPA, the State must begin delineating its local assessment areas. “Delineation” is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

“Other sensitive groundwater areas:”. The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting USDWs from contamination. For the purposes of this Subpart I, the Board considers a “regulated recharge area,” as defined in Section 3.390 3.67 of the Act [415 ILCS 5/3.67] and regulated pursuant to Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], to be an “other sensitive groundwater area,” as intended by corresponding 40 CFR 144.86(g). (See 35 Ill. Adm. Code 615 through 617.) These other sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 (2017)-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

- a) ~~The owner or operator of A person is subject to Section 704.288 if the person owns or operates an existing motor vehicle waste disposal well and that person is located in a groundwater protection area or another sensitive groundwater area is subject to Section 704.288. If the State fails to identify these areas within the federally specified time frames, the additional requirements of Section 704.288 must apply to all existing motor vehicle waste disposal wells within this State.~~

BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the “new requirements” apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas. The Board has interpreted “new requirements” as synonymous with “additional requirements” elsewhere in this Subpart I. Sections 14.1 through 14.6 and 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4] and 35 Ill. Adm. Code 615 through 617 designate protected

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groundwater resources and allow the designation of other sensitive areas for protection. Further, the Illinois Groundwater Protection Act [~~415 ILCS 55~~], and the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the quality of all groundwater resources in Illinois.

- b) This subsection (b) corresponds with 40 CFR 144.87(b), which set forth now-past compliance deadlines for identifying groundwater protection areas. This statement maintains structural consistency with the federal rules. Groundwater protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth requirements applicable to the State only. Other requirements apply to the regulated community contingent on the regulatory status of the Illinois groundwater protection program. The Board has codified the requirements applicable to the State in this subsection (b) for the purpose of informing the regulated public and clarifying the requirements on the regulated community.
- 1) ~~For the purpose of this Subpart I, USEPA requires States to complete all local source water assessments for groundwater protection areas by January 1, 2004. Once a local assessment for a groundwater protection area is complete every existing motor vehicle waste disposal well owner in that groundwater protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for groundwater protection areas by January 1, 2004, the following may occur:~~
- A) ~~The new requirements in this Subpart I apply to all existing motor vehicle waste disposal wells in the State, and the owner or operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for groundwater protection areas must have closed its well or obtained a permit by January 1, 2005.~~
- B) ~~USEPA may have granted a state an extension for up to one year from the January 1, 2004 deadline if the state was making reasonable progress toward completing the source water assessments for groundwater protection areas. States must have applied for the extension by June 1, 2003. If a state failed to complete the assessments for the remaining groundwater protection areas by the extended date, the rule requirements apply to all motor vehicle waste disposal wells in the state, and the owner or operator of a motor vehicle waste disposal well located outside of groundwater protection areas with completed assessments must have closed its well or received a permit by January 1, 2006.~~

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- 2) ~~The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.~~

~~BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].~~

- c) This subsection (c) corresponds with 40 CFR 144.87(c), which set forth now-past compliance deadlines for identifying other sensitive groundwater areas. This statement maintains structural consistency with the federal rules. ~~Other sensitive groundwater areas. The owner or operator of an existing motor vehicle waste disposal well within another sensitive groundwater area has until January 1, 2007 to receive a permit or close the well. If the State failed to identify these additional sensitive groundwater areas by January 1, 2004, the additional requirements of Section 704.288 apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive groundwater areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive groundwater area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section.~~

~~BOARD NOTE: Corresponding 40 CFR 144.87(c) provides that the State had until January 1, 2004 to identify sensitive groundwater areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State had applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive groundwater areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used~~

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~~elsewhere in this Subpart I. Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.~~

- d) ~~Finding Out If~~ ~~out if a well Is is in a~~ Groundwater Protection Area ~~groundwater protection area or~~ Sensitive Groundwater Area ~~sensitive groundwater area~~. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a groundwater protection area or another sensitive groundwater area.
- e) Changes in the Status ~~status~~ of the State Drinking Water Source Assessment ~~drinking water source assessment and~~ Protection Program ~~protection program~~. If the State assesses a groundwater protection area for groundwater supplying a new community water system or a new non-transient non-community water system ~~after January 1, 2004~~, or if the State re-delineates the boundaries of a previously delineated groundwater protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes the local assessment for the groundwater protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~.

- f) This subsection (f) corresponds with 40 CFR 144.87(f), which set forth now-past compliance deadlines in the event of a failure to identify other sensitive groundwater areas. This statement maintains structural consistency with the federal rules. ~~If the State elects not to delineate the additional sensitive groundwater areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007, or January 1, 2008 if an extension has been granted as provided in subsection (e)~~

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~~of this Section, except for wells in groundwater protection areas that are subject to different compliance deadlines explained in subsection (b) of this Section.~~

- g) Application of Requirements Outside ~~requirements outside~~ of groundwater Protection Areas ~~protection areas~~ and Sensitive Groundwater Areas ~~sensitive groundwater areas~~. The Agency must apply the additional requirements in Section 704.288 to an owner or operator, even if the owner's or operator's well is not located in the areas listed in subsection (a) ~~of this Section~~, if the Agency determines that the application of those additional requirements is necessary to protect human health and the environment.

BOARD NOTE: Any Agency determination to apply the additional requirements of Section 704.288 is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40]. The Board has omitted certain segments of corresponding 40 CFR 144.87 that encouraged State actions, since those segments did not impose requirements on the regulated community.

BOARD NOTE: Derived from 40 CFR 144.87 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.288 Additional Requirements

Additional requirements are as follows:

- a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section 704.285 to determine the applicability of these additional requirements. Large-capacity cesspools are prohibited.
- 1) ~~If the cesspool is existing (operational or under construction by April 5, 2000), the following requirements apply:~~
- A) ~~The owner or operator must have closed the well by April 5, 2005.~~
- B) ~~The owner or operator must have notified the Agency of its intent to close the well at least 30 days prior to closure.~~

~~BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells." Although the form "Preclosure Notification for Closure of~~

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~~Injection Wells” is acceptable to USEPA, the Agency may develop alternative forms for use in this State.~~

- ~~2) — If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.~~

~~BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.~~

- b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.
- 1) If the motor vehicle waste disposal well is existing (operational or under construction by April 5, 2000) the following applies:
- A) If the well is in a groundwater protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;
- B) If the well is in an other sensitive groundwater area, the owner or operator must immediately close the well or obtain a permit. The ~~by January 1, 2007;~~ the Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;
- C) If the owner or operator plans to seek a waiver from the ban and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;
- D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its

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permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other health-based standards at the point of injection, follow best management practices, and monitor the injectate and sludge quality;

- E) This subsection (b)(1)(E) corresponds with 40 CFR 144.88(b)(1)(v), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules.~~If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must have closed the well or obtained a permit by January 1, 2005, unless the State obtained an extension, as described in Section 704.287(b), in which case the deadline was January 1, 2006; the Agency must have extended the closure deadline, but not the permit application deadline, for up to one year if it determined that the most efficient compliance option was connection to a sanitary sewer or installation of new treatment technology and the extension was necessary to implement the compliance option;~~
- F) This subsection (b)(1)(F) corresponds with 40 CFR 144.88(b)(1)(vi), which provides a contingency for compliance before dates now past. This statement maintains structural consistency with the federal rules.~~If the State had not delineated other sensitive groundwater areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(e), in which case the deadline is January 2008; or~~
- G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: In the corresponding note to 40 CFR 144.83(a), USEPA states that this information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells:".

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Although the form "Preclosure Notification for Closure of Injection Wells" is acceptable to USEPA, the Agency may develop alternative forms for use in this State.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) of this Section is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

- 2) If the motor vehicle waste disposal well is new or converted (construction not started before April 5, 2000) it is prohibited.

~~BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.~~

BOARD NOTE: Derived from 40 CFR 144.88 (2017)-(2000).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 704.289 Closure of a Class V Injection Well

The following describes the requirements for closing or converting a Class V injection well:

- a) Closure:
 - 1) Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, the owner or operator must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement set forth in Section 704.122 and summarized in Section 704.282(a). The owner or operator must also dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable federal, State, and local regulations and requirements, as described in Section 704.282(b).
 - 2) Closure does not mean that the owner or operator needs to cease operations at its facility, only that the owner or operator needs to close its well. A number of alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include the following: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and

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replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works (POTW). The owner or operator should check with the POTW that it might use to see if the POTW would accept the owner's or operator's wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include the following: conversion to a septic system; connection to a sewer; or installation of an on-site treatment unit.

- b) Conversions. In limited cases, the Agency may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if the two conditions of subsections (b)(1) and (b)(2) ~~of this Section~~ are fulfilled, subject to the conditions of subsection (b)(3) ~~of this Section~~:
- 1) All motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and
 - 2) Injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal.
 - 3) The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V injection well.

BOARD NOTE: Derived from 40 CFR 144.89 (2017) ~~(2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Procedures for Permit Issuance
- 2) Code citation: 35 Ill. Adm. Code 705
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
705.101	Amendment
705.122	Amendment
705.126	Amendment
705.128	Amendment
705.141	Amendment
705.143	Amendment
705.144	Amendment
705.164	Amendment
705.181	Amendment
705.182	Amendment
705.183	Amendment
705.184	Amendment
705.201	Amendment
705.211	Amendment
705.212	Amendment
705.300	Amendment
705.302	Amendment
705.303	Amendment
705.304	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 9856; June 15, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of

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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).

- 11) Differences between the proposal and the final version: A table in a document entitled “Identical-in-Substance Rulemaking Addendum (Final)” that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board’s review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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 JCAR.

Since the Notices of Proposed Amendments appeared in the June 15, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.

- 14) Are there any other rulemakings pending on this Part? No.

- 15) Summary and purpose of rulemaking: The amendments to Part 705 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 704, 720 through 728, 730, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the *Illinois Register*.

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Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 13(c) of the Act (415 ILCS 5/13(c) (2016)) requires the Board to adopt UIC rules that are identical-in-substance to UIC rules adopted by USEPA. The Illinois UIC rules are in 35 Ill. Adm. Code 704, 730, and 738. USEPA did not amend its UIC rules in any way that requires Board action during 2016 or 2017. Rather, the Board reviewed the Illinois UIC rules and finds that non-substantive revisions and corrections are needed in 35 Ill. Adm. Code 704, 730, and 738. *See* 415 ILCS 5/7.2(b) (2016). The Board opened docket R18-31 for this purpose and consolidated it with dockets R17-14, R17-15, and R18-12.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 705 incorporate numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4(a)] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-

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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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 705

PROCEDURES FOR PERMIT ISSUANCE

SUBPART A: GENERAL PROVISIONS

Section	
705.101	Scope and Applicability
705.102	Definitions
705.103	Computation of Time
705.104	Electronic Reporting

SUBPART B: PERMIT APPLICATIONS

Section	
705.121	Permit Application
705.122	Completeness
705.123	Incomplete Applications
705.124	Site Visit
705.125	Effective Date
705.126	Decision Schedule
705.127	Consolidation of Permit Processing
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SUBPART C: APPLICATION REVIEW

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705.142	Statement of Basis
705.143	Fact Sheet
705.144	Administrative Record for Draft Permits or Notices of Intent to Deny

SUBPART D: PUBLIC NOTICE

Section	
705.161	When Public Notice Must Be Given
705.162	Timing of Public Notice
705.163	Methods of Public Notice

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- 705.164 Contents of Public Notice
- 705.165 Distribution of Other Materials

SUBPART E: PUBLIC COMMENT

Section

- 705.181 Public Comments and Requests for Public Hearings
- 705.182 Public Hearings
- 705.183 Obligation to Raise Issues and Provide Information
- 705.184 Reopening of Public Comment Period

SUBPART F: PERMIT ISSUANCE

Section

- 705.201 Final Permit Decision
- 705.202 Stay of Permit Conditions upon Appeal
- 705.203 Stay for New Application or upon Untimely Application for Renewal (Repealed)
- 705.204 Stay upon Reapplication or for Modification (Repealed)
- 705.205 Stay Following Interim Status (Repealed)
- 705.210 Agency Response to Comments
- 705.211 Administrative Record for Final Permits or Letters of Denial
- 705.212 Appeal of Agency Permit Determinations

SUBPART G: PROCEDURE FOR RCRA STANDARDIZED PERMIT

Section

- 705.300 General Information About RCRA Standardized Permits
- 705.301 Applying for a RCRA Standardized Permit
- 705.302 Issuance of a RCRA Standardized Permit
- 705.303 Public Participation in the RCRA Standardized Permit Process
- 705.304 Modifying a RCRA Standardized Permit

- 705.APPENDIX A Procedures for Permit Issuance
- 705.APPENDIX B Modification Process
- 705.APPENDIX C Application Process
- 705.APPENDIX D Application Review Process
- 705.APPENDIX E Public Comment Process
- 705.APPENDIX F Permit Issuance or Denial

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4 and 27].

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SOURCE: Adopted in R81-32 at 6 Ill. Reg. 12479, effective May 17, 1982; amended in R82-19, at 7 Ill. Reg. 14352, effective May 17, 1982; amended in R84-9, at 9 Ill. Reg. 11894, effective July 24, 1985; amended in R89-2 at 14 Ill. Reg. 3082, effective February 20, 1990; amended in R94-5 at 18 Ill. Reg. 18265, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9906, effective June 27, 1995; amended in R03-7 at 27 Ill. Reg. 3675, effective February 14, 2003; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 706, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1653, effective January 20, 2012; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 705.101 Scope and Applicability

- a) This Part sets forth procedures that the Illinois Environmental Protection Agency (Agency) must follow in issuing RCRA (Resource Conservation and Recovery Act) and UIC (Underground Injection Control) permits. This Part also specifies rules on effective dates of permits and stays of contested permit conditions.
- b) This Part provides for a public comment period and a hearing in some cases. The permit applicant and any other participants must raise issues during this proceeding to preserve issues for effective Board review, as required by Section 705.183.
- c) Board review of permit issuance or denial is pursuant to 35 Ill. Adm. Code 105. Board review is restricted to the record that was before the Agency when the permit was issued, as required by Sections 40(a) and 40(b) of the Environmental Protection Act [~~415 ILCS 5/40(a) and (b)~~].
- d) The provisions of 35 Ill. Adm. Code 702, 703, and 704 contain rules on UIC and RCRA permit applications, permit conditions, and related matters.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: PERMIT APPLICATIONS

Section 705.122 Completeness

- a) The Agency must review every application for a RCRA or UIC permit for completeness.
- b) Time limitations on Agency review for application completeness:

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- 1) Each application for a permit submitted by a new HWM (hazardous waste management) facility or new UIC injection well must be reviewed for completeness within 30 days of its receipt.
- 2) Each application for a permit by an existing HWM facility (both Parts A and B of the application) or existing injection well must be reviewed for completeness within 60 days of receipt.
- c) Upon completing its review for completeness, the Agency must notify the applicant in writing whether the application is complete. If the application is incomplete, the Agency must list the information necessary to make the application complete.
- d) When the application is for an existing HWM (Hazardous Waste Management) facility or an existing UIC injection well, the Agency must also specify in the notice of deficiency a date for submitting the necessary information.
- e) The Agency shall, within the time limitations specified in subsection (b) ~~of this Section~~, notify the applicant whether additional information submitted in response to a notice of deficiency is deemed sufficient or insufficient to complete the application.
- f) After the application is deemed complete, the Agency may request additional information from an applicant only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

BOARD NOTE: Derived from 40 CFR 124.3(c) (2017) ~~(2002)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.126 Decision Schedule

For each permit application from a major new HWM facility or major new UIC injection well, the Agency must, no later than the effective date of the application, prepare and mail to the applicant a projected decision schedule. The schedule must specify target dates by which the Agency intends to do the following:

- a) Prepare a draft permit pursuant to Subpart C ~~of this Part~~;
- b) Give public notice pursuant to Subpart D ~~of this Part~~;

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- c) Complete the public comment period, including any public hearing pursuant to Subpart E ~~of this Part~~; and
- d) Issue a final permit pursuant to Subpart F ~~of this Part~~.

BOARD NOTE: Derived from 40 CFR 124.3(g) (2017) ~~(2002)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.128 Modification or Reissuance of Permits

- a) The Agency may modify or reissue a permit either at the request of any interested person (including the permittee) or on its own initiative. However, the Agency may only modify or reissue a permit for the reasons specified in 35 Ill. Adm. Code 704.261 through 704.263 (UIC) or 35 Ill. Adm. Code 703.270 through 703.273 (RCRA). A request for permit modification or reissuance must be made in writing, must be addressed to the Agency (Division of Land Pollution Control), and must contain facts or reasons supporting the request.
- b) If the Agency determines that a request for modification or reissuance is not justified, it must send the requester a brief written response giving a reason for the determination. A denial of a request for modification or reissuance is not subject to public notice, comment, or public hearing requirements. The requester may appeal a denial of a request to modify or reissue a permit to the Board pursuant to 35 Ill. Adm. Code 105.
- c) Agency Modification or Reissuance Procedures:
 - 1) If the Agency tentatively decides to initiate steps to modify or reissue a permit pursuant to this Section and 35 Ill. Adm. Code 704.261 through 704.263 or 35 Ill. Adm. Code 703.270 through 703.273 (other than 35 Ill. Adm. Code 703.272(c)), after giving public notice pursuant to Section 705.161(a)(1), as though an application had been received, it must prepare a draft permit pursuant to Section 705.141 incorporating the proposed changes. The Agency may request additional information and may require the submission of an updated permit application. For reissued permits, other than those reissued under 35 Ill. Adm. Code 703.272(c), the Agency must require the submission of a new application. For permits reissued under 35 Ill. Adm. Code 703.272(c), the Agency and the permittee must comply with the appropriate requirements in Subpart G of 35 Ill. Adm. Code 705.

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- 2) In a permit modification proceeding pursuant to this Section, only those conditions to be modified must be reopened when a new draft permit is prepared. When a permit is to be reissued pursuant to this Section, the entire permit is reopened just as if it had expired. During any reissuance proceeding, including any appeal to the Board, the permittee must comply with all conditions of its existing permit until a new final permit is reissued.
- 3) “Minor modifications,” as defined in 35 Ill. Adm. Code 704.264, and “Class 1 and 2 modifications,” as defined in 35 Ill. Adm. Code 703.281 and 703.282, are not subject to this Section.
- d) To the extent that the Agency has authority to reissue a permit, it must prepare a draft permit or notice of intent to deny in accordance with Section 705.141 if it decides to do so.
- e) The Agency or any person may seek the revocation of a permit in accordance with Title VIII of the Environmental Protection Act ~~[415 ILCS 5/Title VIII]~~ and the procedure of 35 Ill. Adm. Code 103. Revocation may only be sought for those reasons specified in 35 Ill. Adm. Code 702.186(a) through (d).

BOARD NOTE: Derived from 40 CFR 124.5 (2017) ~~(2005)~~, as amended at 70 Fed. Reg. 53420 ~~(Sep. 8, 2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: APPLICATION REVIEW

Section 705.141 Draft Permits

- a) Once an application for permit is complete, the Agency must tentatively decide whether to prepare a draft permit or to deny the application.
- b) If the Agency tentatively decides to deny the permit application, it must issue a notice of intent to deny. A notice of intent to deny must be subject to all of the procedural requirements applicable to draft permits under subsection (d) ~~of this Section~~. If the Agency’s final decision made pursuant to Section 705.201 is that the tentative decision to deny the permit application was incorrect, it must withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection (c) ~~of this Section~~.
- c) If the Agency decides to prepare a draft permit, it must prepare a draft permit that contains the following information:

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- 1) All conditions under 35 Ill. Adm. Code 702.140 through 702.152 and 35 Ill. Adm. Code 702.160;
 - 2) All compliance schedules under 35 Ill. Adm. Code 702.162 and 702.163;
 - 3) All monitoring requirements under 35 Ill. Adm. Code 702.164; and
 - 4) The following program-specific permit conditions:
 - A) For RCRA permits, standards for treatment, storage, or disposal and other permit conditions under Subpart F of 35 Ill. Adm. Code 703;
 - B) For UIC permits, permit conditions under Subpart E of 35 Ill. Adm. Code 704.
- d) A draft permit or a notice of intent to deny prepared under this Section must be accompanied by a statement of basis, under Section 705.142, or a fact sheet, under Section 705.143, must be based on the administrative record pursuant to Section 705.144, must be publicly noticed pursuant to Subpart D of this Part, and must be made available for public comment pursuant to Section 705.181. The Agency must give notice of opportunity for a public hearing pursuant to Section 705.182, issue a final decision pursuant to Section 705.201, and respond to comments pursuant to Section 705.210. An appeal may be taken under Section 705.212.

BOARD NOTE: Derived from 40 CFR 124.6 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.143 Fact Sheet

- a) A fact sheet must be prepared for every draft permit for a major HWM or a major UIC facility or activity, and for every draft permit or notice of intent to deny that the Agency finds is the subject of widespread public interest or raises major issues. The fact sheet must briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The Agency must send this fact sheet to the applicant and, on request, to any other person.
- b) The fact sheet must include the following, when applicable:
 - 1) A brief description of the type of facility or activity that is the subject of the draft permit;

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- 2) The type and quantity of wastes, fluids or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- 3) A brief summary of the basis for refusing to grant a permit or for imposing each draft permit condition including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record as defined by Section 705.144;
- 4) Reasons why any requested schedules of compliance or other alternatives to required standards do or do not appear justified;
- 5) A description of the procedures for reaching a final decision on the draft permit including the following:
 - A) The beginning and ending dates of the comment period pursuant to Subpart D of this Part, and the address where comments will be received;
 - B) Procedures for requesting a hearing, and the nature of that hearing; and
 - C) Any other procedures by which the public may participate in the final decision.
- 6) The name and telephone number of a person to contact for additional information.

BOARD NOTE: Derived from 40 CFR 124.8 ~~(2017)~~-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.144 Administrative Record for Draft Permits or Notices of Intent to Deny

- a) The provisions of a draft permit or notice of intent to deny the application must be based on the administrative record, as defined in this Section.
- b) The administrative record must consist of the following:
 - 1) The application and any supporting data furnished by the applicant;
 - 2) The draft permit or notice of intent to deny the application;

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- 3) The statement of basis, as provided in Section 705.142, or fact sheet, as provided in Section 705.143;
 - 4) All documents cited in the statement of basis or fact sheet;
 - 5) Other documents contained in the supporting file for the draft permit or notice of intent to deny; and
 - 6) An index of all documents or items included in the record, by location in the record.
- c) Published material that is generally available, and which is included in the administrative record under subsection (b) ~~of this Section~~, need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis or the fact sheet.
- d) This Section applies to all draft permits or notices of intent to deny ~~for which public notice was first given under Subpart D of this Part after March 3, 1984, for UIC permits, or January 31, 1986, for RCRA permits.~~

BOARD NOTE: Derived from 40 CFR 124.9 ~~(2017)~~(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: PUBLIC NOTICE

Section 705.164 Contents of Public Notice

- a) All public notices issued under this Part must contain the following minimum information:
- 1) The name and address of the Agency;
 - 2) The name and address of the permittee or permit applicant and, if different, the name and address of the facility or activity regulated by the permit;
 - 3) A brief description of the business conducted at the facility or the activity described in the permit application or the draft permit;
 - 4) The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit; a copy of the statement of basis or fact sheet; and a copy of the permit application;

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- 5) A brief description of the comment procedures required by Sections 705.181 and 705.182; the time and place of any hearing that will be held, including a statement of the procedures to request a hearing (unless a hearing has already been scheduled); and the other procedures by which the public may participate in the final permit decision;
 - 6) The location of the administrative record required by Section 705.144, the time at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record; and
 - 7) Any additional information that the Agency considers necessary or appropriate.
- b) Public Notices ~~notices~~ for Hearings ~~hearings~~. In addition to the general public notice described in subsection (a) ~~of this Section~~, the public notice of a hearing under Section 705.182 must contain the following information:
- 1) Reference to the date of previous public notices relating to the permit;
 - 2) The date, time, and place of the hearing; and
 - 3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

BOARD NOTE: Derived from 40 CFR 124.10(d) (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: PUBLIC COMMENT

Section 705.181 Public Comments and Requests for Public Hearings

During the public comment period provided under Subpart D ~~of this Part~~, any interested person may submit written comments on the draft permit to the Agency, and any interested person may request a public hearing. A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised in the hearing. The Agency must consider all comments in making the final decision and must answer, as provided in Section 705.210.

BOARD NOTE: Derived from 40 CFR 124.11 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 705.182 Public Hearings

- a) When the Agency Holds Public Hearings ~~holds public hearings~~.
- 1) The Agency must hold a public hearing whenever it finds a significant degree of public interest in a draft permit on the basis of requests.
 - 2) The Agency may also hold a public hearing at its discretion, whenever such a hearing might clarify one or more issues involved in the permit decision.
 - 3) For RCRA permits only the following additional requirements apply:
 - A) The Agency must hold a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Section 705.162(a);
 - B) Whenever possible, the Agency must schedule the hearing at a location convenient to the population center nearest to the proposed facility.
 - 4) Public notice of the hearing must be given as specified in Section 705.162.
- b) Whenever a public hearing will be held, the Agency must designate a hearing officer who must be responsible for its scheduling and orderly conduct. Conduct of the hearing must be in accordance with Agency rules and procedures, and the hearing must be held in the county in which the HWM or UIC facility or proposed HWM or UIC facility is located.
- c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set by the hearing officer on the time allowed at hearing for oral statements, and the submission of statements in writing may be required. Written statements must be accepted until the close of the public comment period. The public comment period under Subpart D ~~of this Part~~ must automatically be extended to a date not later than 30 days after the close of any public hearing under this Section. The hearing officer may also extend the comment period by entering an appropriate order into the record.
- d) A tape recording or written transcript of the hearing must be made available to the public for inspection during regular business hours at the Agency's office in Springfield. Copies of such recording or transcription must be made available on request, upon payment of reasonable costs of duplication pursuant to applicable Agency rules and procedures.

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BOARD NOTE: Derived from 40 CFR 124.12 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.183 Obligation to Raise Issues and Provide Information

All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the Agency's tentative decision to deny an application or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under Subpart D ~~of this Part~~. All supporting materials must be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or they consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters must make supporting material not already included in the administrative record available to the Agency, as directed by the Agency. The Agency must extend the public comment period by an appropriate time if a commenter demonstrates that the additional time is necessary to submit supporting materials under this Section.

BOARD NOTE: Derived from 40 CFR 124.13 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.184 Reopening of Public Comment Period

- a) The Agency may reopen the public comment period under this Section if doing so could expedite the decisionmaking process.
 - 1) If the public comment period is reopened under this subsection (a), any person, including the applicant, who believes any condition of a draft permit is inappropriate or that the Agency's tentative decision to deny an application or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, before a date, not less than 60 days after public notice given under subsection (a)(2) ~~of this Section~~, set by the Agency. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than 20 days after the date set for filing of the material (as set forth in the preceding sentence), set by the Agency.

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- 2) Public notice of any comment period under this subsection (a) must identify the issues to which the requirements of this subsection (a) will apply.
 - 3) On its own motion or on the request of any person, the Agency may direct that the requirements of subsection (a)(1) ~~of this Section~~ will apply during the initial public comment period where the Agency determines that issuance of the permit will be contested and that applying the requirements of subsection (a)(1) ~~of this Section~~ will substantially expedite the decisionmaking process. The notice of the draft permit must state whenever this has been done.
 - 4) A comment period of longer than 60 days may be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this Section. A commenter may request a longer comment period, and one must be granted under Subpart D ~~of this Part~~ to the extent that the Agency determines that a longer comment period is necessary.
- b) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Agency may undertake one or more of the following actions:
- 1) It may prepare a new draft permit, appropriately modified, under Section 705.141;
 - 2) It may prepare a revised statement of basis, a fact sheet, or a revised fact sheet and reopen the comment period under subsection (b)(3) ~~of this Section~~;
 - 3) It may reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.
- c) Comments filed during the reopened comment period must be limited to the substantial new questions that caused its reopening. The public notice under Subpart D ~~of this Part~~ must define the scope of the reopening.
- d) After an extended comment period, the Agency may undertake final action under Section 705.201 that it deems appropriate based on the record.
- e) Public notice of any of the above actions must be issued under Subpart D ~~of this Part~~.

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BOARD NOTE: Derived from 40 CFR 124.14 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: PERMIT ISSUANCE

Section 705.201 Final Permit Decision

- a) After the close of the public comment period under Subpart D ~~of this Part~~ or Section 705.182, the Agency must issue a final permit decision.
- b) A final permit decision must consist of either of the following:
 - 1) A letter of denial that includes each of the following:
 - A) The Sections of the appropriate Act that may be violated if the permit were granted;
 - B) The provisions of Board regulations that may be violated if the permit were granted;
 - C) The specific type of information, if any, that the Agency deems the applicant did not provide with its application; and
 - D) A statement of specific reasons why the Act and the regulations might not be met if the permit were granted; or
 - 2) Issuance of a permit.
- c) On the date of the final permit decision, the Agency must notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice must include reference to the procedures for appealing an Agency RCRA or UIC permit decision under Section 705.212.
- d) A final permit must become effective 35 days after the final permit decision made under subsection (a) ~~of this Section~~, unless:
 - 1) A later effective date is specified in the permit; or
 - 2) Review is requested under Section 705.212, in which case the effective date and conditions will be stayed as provided in Sections 705.202 through 705.205.

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BOARD NOTE: This Section corresponds with and is partially derived from 40 CFR 124.15 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.211 Administrative Record for Final Permits or Letters of Denial

- a) The Agency must base final permit decisions under Section 705.201 on the administrative record defined in this Section.
- b) The administrative record for any final permit or letter of denial must consist of the administrative record for the draft permit together with the following:
 - 1) All comments received during the public comment period provided under Subpart D of this Part (including any extension or reopening under Section 705.184);
 - 2) The tape or transcript of any hearing held under Section 705.182;
 - 3) Any written materials submitted at such a hearing;
 - 4) The response to comments required by Section 705.210 and any new material placed in the record under that Section;
 - 5) Other documents contained in the supporting file for the permit; and
 - 6) The final permit or letter of denial.
- c) The additional documents required under subsection (b) of this Section should be added to the record as soon as possible after their receipt or publication by the Agency. The record must be completed on the date that the final permit or letter of denial is issued.
- d) This Section applies to all final RCRA permits, UIC permits, and letters of denial, when the draft permit was subject to the administrative record requirements of Section 705.144.

BOARD NOTE: Derived from 40 CFR 124.18 (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 705.212 Appeal of Agency Permit Determinations

- a) Within 35 days after a RCRA or UIC final permit decision notification has been issued under Section 705.201, the following persons may petition the Board to review any condition of the permit decision:
 - 1) The permit applicant, and
 - 2) Any person who filed comments on the draft permit or who participated in the public hearing on the draft permit.
- b) Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision.
- c) A petition for review must include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required in this Part; in all other respects, the petition must comport with the requirements for permit appeals generally, as set forth in 35 Ill. Adm. Code 105.
- d) Except as otherwise provided in this Part, the provisions of 35 Ill. Adm. Code 105 generally will govern appeals of RCRA and UIC permits under this Section. References in the procedural rules to the Agency permit application record will mean, for purposes of this Section, the administrative record for the final permit or letter of denial, as defined in Section 705.211.
- e) An appeal under subsection (a) or (b) of this Section is a prerequisite to the seeking of judicial review of the final agency action under the administrative review provisions of Article III of the Code of Civil Procedure [735 ILCS 5/Art. III].

BOARD NOTE: This Section corresponds with 40 CFR 124.19(a) (2017)-(2002).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: PROCEDURE FOR RCRA STANDARDIZED PERMIT

Section 705.300 General Information About RCRA Standardized Permits

- a) RCRA Standardized Permit ~~standardized permit~~. A RCRA standardized permit is a special form of RCRA permit that may consist of two parts: a uniform portion that the Agency issues in all cases, and a supplemental portion that the Agency

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issues on a case-by-case basis at its discretion. The term “RCRA standardized permit” is defined in 35 Ill. Adm. Code 702.110.

- 1) The Uniform Portion ~~uniform portion~~. The uniform portion of a RCRA standardized permit consists of terms and conditions, relevant to the units operated at a facility, that appear in 35 Ill. Adm. Code 727 (Standards for Owners and Operators of Hazardous Waste Facilities Operating under a RCRA Standardized Permit). If an owner or operator intends to operate under the RCRA standardized permit, it must comply with the nationally applicable terms and conditions of 35 Ill. Adm. Code 727.
- 2) The Supplemental Portion ~~supplemental portion~~. The supplemental portion of a RCRA standardized permit consists of site-specific terms and conditions, beyond those of the uniform portion, that the Agency may impose on a particular facility, as necessary to adequately protect human health and the environment. If the Agency issues a supplemental portion, the owner or operator must comply with the Agency-imposed site-specific terms and conditions.
 - A) When required pursuant to 35 Ill. Adm. Code 727.190(1), provisions to implement corrective action must be included in the supplemental portion.
 - B) Unless otherwise specified, the supplemental permit terms and conditions apply to a facility in addition to the terms and conditions of the uniform portion of the RCRA standardized permit and not in place of any of those terms and conditions.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.200 (2017), as added at ~~70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

- b) Eligibility for a RCRA Standardized Permit ~~standardized permit~~.
 - 1) A facility owner or operator may be eligible for a RCRA standardized permit if it engages in either of the following:
 - A) It generates hazardous waste and then stores or non-thermally treats the hazardous waste on-site in containers, tanks, or containment buildings; or
 - B) It receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then it stores or

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non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

- C) In either case, the Agency must inform the owner or operator of its eligibility when a decision is made on its permit.
- 2) This subsection (b)(2) corresponds with 40 CFR 124.201(b), which USEPA has marked “reserved.”. This statement maintains structural consistency with the corresponding federal rule.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.201 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.302 Issuance of a RCRA Standardized Permit

- a) ~~Agency Preparation~~ preparation of a ~~Draft draft~~ RCRA Standardized Permit ~~standardized permit.~~
 - 1) The Agency must review the Notice of Intent and supporting information submitted by the facility owner or operator.
 - 2) The Agency must determine whether the facility is or is not eligible to operate under the RCRA standardized permit.
 - A) If the facility is eligible for the RCRA standardized permit, the Agency must propose terms and conditions, if any, to include in a supplemental portion. If the Agency determines that these terms and conditions are necessary to adequately protect human health and the environment, and the terms and conditions cannot be imposed, the Agency must tentatively deny coverage under the RCRA standardized permit.
 - B) If the facility is not eligible for the RCRA standardized permit, the Agency must tentatively deny coverage under the RCRA standardized permit. Cause for ineligibility may include, but is not limited to, the following:
 - i) A failure of owner or operator to submit all the information required pursuant to 35 Ill. Adm. Code 703.351(b).

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- ii) Information submitted that is required pursuant to 35 Ill. Adm. Code 703.351(b) that is determined to be inadequate.
 - iii) The facility does not meet the eligibility requirements (its activities are outside the scope of the RCRA standardized permit).
 - iv) A demonstrated history of significant non-compliance with applicable requirements.
 - v) Permit conditions cannot ensure adequate protection of human health and the environment.
- 3) The Agency must prepare its draft permit decision within 120 days after receiving the Notice of Intent and supporting documents from a facility owner or operator. The Agency's tentative determination pursuant to this Section to deny or grant coverage under the RCRA standardized permit, including any proposed site-specific conditions in a supplemental portion, constitutes a draft permit decision. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency must inform the permit applicant during the initial 120-day review period. Reasons for an extension may include, but are not limited to, needing to complete review of submissions with the Notice of Intent (*e.g.*, closure plans, waste analysis plans, etc. for facilities seeking to manage hazardous waste generated off-site).
- 4) Many requirements in this Part and 35 Ill. Adm. Code 702 apply to processing the RCRA standardized permit application and preparing the Agency's draft permit decision. For example, the Agency's draft permit decision must be accompanied by a statement of basis or fact sheet and must be based on the administrative record. In preparing the Agency's draft permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):
- A) Section 705.101 (Scope and Applicability): all subsections apply.
 - B) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.
 - C) Sections 705.121 (Permit Application) and 705.124 (Site Visit): all subsections apply.

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- D) Section 705.127 (Consolidation of Permit Processing): applies.
- E) Section 705.128 (Modification or Reissuance of Permits): does not apply.
- F) Section 705.141 (Draft Permits): does not apply to the RCRA RCRA standardized permit; procedures in this Subpart G apply instead.
- G) Section 705.142 (Statement of Basis): applies.
- H) Section 705.143 (Fact Sheet): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D of this Part.
- I) Section 705.144 (Administrative Record for Draft Permits or Notices of Intent to Deny): all subsections apply.
- J) Subpart D of this Part (Public Notice): only Section 705.163(a)(4) and (a)(5)(A) applies to the RCRA standardized permit. Most of Subpart D of this Part does not apply to the RCRA standardized permit; Section 705.303(a) through (c) applies instead.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.204 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Preparation of a Final final RCRA Standardized Permit ~~standardized permit~~. The Agency must consider all comments received during the public comment period (see Section 705.303(b)) in making its final permit decision. In addition, many requirements in this Part and 35 Ill. Adm. Code 702 apply to the public comment period, public hearings, and preparation of the Agency's final permit decision. In preparing a final permit decision, the following provisions of this Part and 35 Ill. Adm. Code 702 apply (subject to the following modifications):
 - 1) Section 705.101 (Scope and Applicability): all subsections apply.
 - 2) 35 Ill. Adm. Code 702.110 (Definitions): all definitions apply.
 - 3) Section 705.181 (Public Comments and Requests for Public Hearings): Section 705.181 does not apply to the RCRA standardized permit; the procedures in Section 705.303(b) apply instead.

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- 4) Section 705.182 (Public Hearings): Section 705.182(b), (c), and (d) applies.
- 5) Section 705.183 (Obligation to Raise Issues and Provide Information): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D ~~of this Part~~.
- 6) Section 705.184 (Reopening of the Public Comment Period): all of subsections apply; however, in the context of the RCRA standardized permit, the reference in Section 705.184(b)(1) to preparation of a draft permit is Section 705.302(a) instead of Section 705.141; the reference in Section 705.184(b)(3) to reopening or extending the comment period relates to Section 705.303(b); the reference in Section 705.184(c) to the public notice is Section 705.303(a) instead of Subpart D ~~of this Part~~.
- 7) Section 705.201 (Final Permit Decision): all subsections apply; however, in the context of the RCRA standardized permit, the reference to the public comment period is Section 705.303(b) instead of Subpart D ~~of this Part~~.
- 8) Section 705.202 (Stay of Permit Conditions upon Appeal): all subsections apply.
- 9) Section 705.210 (Agency Response to Comments): Section 705.210 does not apply to the RCRA standardized permit; procedures in Section 705.303(c) apply instead.
- 10) Section 705.211 (Administrative Record for Final Permit or Letters of Denial): all subsections apply, however, the reference to response to comments is Section 705.303(c) instead of Section 705.210.
- 11) Section 705.212 (~~Appeal of~~ Appeal of Agency Permit Determinations): all subsections apply.
- 12) Section 705.103 (Computation of Time): all subsections apply.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.205 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- c) When a facility owner or operator must apply for an individual permit.
 - 1) Instances in which the Agency may determine that a facility is not eligible for the RCRA standardized permit include, but are not limited to, the following:
 - A) The facility does not meet the criteria in Section 705.300(b).
 - B) The facility has a demonstrated history of significant non-compliance with regulations or permit conditions.
 - C) The facility has a demonstrated history of submitting incomplete or deficient permit application information.
 - D) The facility has submitted incomplete or inadequate materials with the Notice of Intent (submitted pursuant to Section 705.301(a)(2)).
 - 2) If the Agency determines that a facility is not eligible for the RCRA standardized permit, the Agency must inform the facility owner or operator that it must apply for an individual permit.
 - 3) The Agency may require any facility that has a RCRA standardized permit to apply for and obtain an individual RCRA permit. Any interested person may petition the Agency to take action pursuant to this subsection (c)(3). Instances in which the Agency may require an individual RCRA permit include, but are not limited to, the following:
 - A) The facility is not in compliance with the terms and conditions of the standardized RCRA permit.
 - B) Circumstances have changed since the time the facility owner or operator applied for the RCRA standardized permit, so that the facility's hazardous waste management practices are no longer appropriately controlled under the RCRA standardized permit.
 - 4) The Agency may require any facility authorized by a RCRA standardized permit to apply for an individual RCRA permit only if the Agency has notified the facility owner or operator in writing that an individual permit application is required. The Agency must include in this notice a brief statement of the reasons for its decision, a statement setting a deadline for the owner or operator to file the application, and a statement that, on the effective date of the individual RCRA permit, the facility's RCRA

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standardized permit automatically terminates. The Agency may grant additional time upon request from the facility owner or operator.

- 5) When the Agency issues an individual RCRA permit to an owner or operator otherwise subject to a standardized RCRA permit, the RCRA standardized permit for that facility will automatically cease to apply on the effective date of the individual permit.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.206 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005). An owner or operator authorized to operate under a RCRA standardized permit that is required by the Agency to submit an application for an individual permit pursuant to this subsection (c) may appeal that Agency determination before the Board pursuant to Section 40 of the Act [415 ILCS 5/40] and 35 Ill. Adm. Code 101 and 105.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.303 Public Participation in the RCRA Standardized Permit Process

- a) Requirements for Public Notices ~~public notices~~.
 - 1) The Agency must provide public notice of its draft permit decision and must provide an opportunity for the public to submit comments and request a hearing on that decision. The Agency must provide the public notice to the following persons:
 - A) The applicant;
 - B) Any other agency that the Agency knows has issued or is required to issue a RCRA permit for the same facility or activity (including USEPA when the draft permit is prepared by the State);
 - C) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, Illinois Historic Preservation Agency, including any affected states;
 - D) Everyone on the facility mailing list developed according to the requirements in Section 705.163(a)(4); and
 - E) Any units of local government having jurisdiction over the area where the facility is proposed to be located and to each State

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agency having any authority under State law with respect to the construction or operation of the facility.

- 2) The Agency must issue the public notice according to the following methods:
 - A) Publication in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations;
 - B) In a manner constituting legal notice to the public under State law; and
 - C) Any other method reasonably calculated to give actual notice of the draft permit decision to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.
- 3) The Agency must include the following information in the public notice:
 - A) The name and telephone number of the contact person at the facility.
 - B) The name and telephone number of the Agency's contact office, and a mailing address to which people may direct comments, information, opinions, or inquiries.
 - C) An address to which people may write to be put on the facility mailing list.
 - D) The location where people may view and make copies of the draft RCRA standardized permit and the Notice of Intent and supporting documents.
 - E) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location on the front page of the notice.
 - F) The date that the facility owner or operator submitted the Notice of Intent and supporting documents.
- 4) At the same time that the Agency issues the public notice pursuant to this Section, it must place the draft RCRA standardized permit (including both

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the uniform portion and the supplemental portion, if any), the Notice of Intent and supporting documents, and the statement of basis or fact sheet in a location accessible to the public in the vicinity of the facility or at the local Agency office.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.207 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- b) Opportunities for Public Comment ~~public comment~~ and Hearing ~~hearing~~ on a Draft Permit Decision ~~draft permit decision~~.
- 1) The public notice that the Agency issues pursuant to Section 705.303(a) must allow at least 45 days for interested persons to submit written comments on its draft permit decision. This time is referred to as the public comment period. The Agency must automatically extend the public comment period to the close of any public hearing pursuant to this subsection (b). The hearing officer may also extend the comment period by so stating at the hearing.
 - 2) During the public comment period, any interested person may submit written comments on the draft permit and may request a public hearing. Any request for a public hearing must be submitted to the Agency in writing. The request for a public hearing must state the nature of the issues that the requestor proposes to raise during the hearing.
 - 3) The Agency must hold a public hearing whenever it receives a written notice of opposition to a RCRA standardized permit and a request for a public hearing within the public comment period pursuant to subsection (b)(1) ~~of this Section~~. The Agency may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.
 - 4) Whenever possible, the Agency must schedule a hearing pursuant to this subsection (b) at a location convenient to the nearest population center to the facility. The Agency must give public notice of the hearing at least 30 days before the date set for the hearing. (The Agency may give the public notice of the hearing at the same time it provides public notice of the draft permit, and the Agency may combine the two notices.)
 - 5) The Agency must give public notice of the hearing according to the methods in Section 705.303(a)(1) and (a)(2). The hearing must be conducted according to the procedures in Section 705.182(b), (c), and (d).

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- 6) In their written comments and during the public hearing, if held, interested persons may provide comments on the draft permit decision. These comments may include, but are not limited to, the facility's eligibility for the RCRA standardized permit, the tentative supplemental conditions proposed by the Agency, and the need for additional supplemental conditions.

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.208 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- c) Requirements for Responding ~~responding to~~ Comments ~~comments~~.
- 1) At the time the Agency issues a final RCRA standardized permit, it must also respond to comments received during the public comment period on the draft permit. The Agency's response must do each of the following:
 - A) It must specify which additional conditions (i.e., those in the supplemental portion), if any, the Agency changed in the final permit, and the reasons for each change.
 - B) It must briefly describe and respond to all significant comments on the facility's ability to meet the general requirements (i.e., those terms and conditions in the uniform portion) and all significant comments on any additional conditions necessary to adequately protect human health and the environment that are raised during the public comment period or during the hearing.
 - C) It must make the comments and responses accessible to the public.
 - 2) The Agency may request additional information from the facility owner or operator or inspect the facility if it needs additional information to adequately respond to significant comments or to make decisions about conditions that it may need to add to the supplemental portion of the RCRA standardized permit.
 - 3) The Agency must include in the administrative record for its final permit decision any documents cited in the response to comments. If new points are raised or new material supplied during the public comment period, the Agency may document its response to those matters by adding new materials to the administrative record.

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BOARD NOTE: Subsection (c) is derived from 40 CFR 124.209 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

- d) Appeal of a ~~Final~~ Final RCRA Standardized Permit ~~standardized permit~~ by an Interested Party ~~interested party~~ in the Permit Process ~~permit process~~. An interested party may petition the Board for administrative review of the Agency's final permit decision, including the Agency's decision that the facility is eligible for the RCRA standardized permit, according to the procedures of Section 705.212. However, the terms and conditions of the uniform portion of the RCRA standardized permit are not subject to administrative review pursuant to this subsection (d).

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.210 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 705.304 Modifying a RCRA Standardized Permit

- a) Permissible Types ~~types~~ of Changes ~~changes~~ an Owner ~~owner~~ or Operator ~~Operator~~ May Make ~~operator may make~~ to its RCRA Standardized Permit ~~standardized permit~~. A facility owner or operator may make a routine change, a routine change with prior Agency approval, or a significant change. For the purposes of this subsection (a), the following definitions apply:

“Routine change” is any change to the RCRA standardized permit that qualifies as a Class 1 permit modification (without prior Agency approval) pursuant to Appendix A to 35 Ill. Adm. Code 703.

“Routine change with prior Agency approval” is a change to the RCRA standardized permit that would qualify as a Class ~~class~~-1 modification with prior agency approval, or a Class 2 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703.

“Significant change” is any change to the RCRA standardized permit that falls into one of the following categories:

It qualifies as a Class 3 permit modification pursuant to Appendix A to 35 Ill. Adm. Code 703;

It is not explicitly identified in Appendix A to 35 Ill. Adm. Code 703; or

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It amends any terms or conditions in the supplemental portion of the RCRA standardized permit.

BOARD NOTE: Subsection (a) is derived from 40 CFR 124.211 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

b) Procedures to Make Routine Changes ~~make routine changes~~.

- 1) An owner or operator can make routine changes to the RCRA standardized permit without obtaining approval from the Agency. However, the owner or operator must first determine whether the routine change it will make amends the information it submitted to the Agency pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit.
- 2) If the routine changes that the owner or operator makes amend the information it submitted pursuant to 35 Ill. Adm. Code 703.351(b) with its Notice of Intent to operate under the RCRA standardized permit, then before the owner or operator makes the routine changes it must do both of the following:
 - A) It must submit to the Agency the revised information pursuant to 35 Ill. Adm. Code 703.351(b)(1); and
 - B) It must provide notice of the changes to the facility mailing list and to State and local governments in accordance with the procedures in Section 705.163(a)(4) and (a)(5).

BOARD NOTE: Subsection (b) is derived from 40 CFR 124.212 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

c) Procedures for Routine Changes ~~routine changes~~ with Prior ~~prior~~ Agency Approval ~~approval~~.

- 1) Routine changes to the RCRA standardized permit may only be made with the prior written approval of the Agency.
- 2) The owner or operator must also follow the procedures in subsections (b)(2)(A) and (b)(2)(B) ~~of this Section~~.

BOARD NOTE: Subsection (c) is derived from 40 CFR 124.213 (2017), as added at 70 Fed. Reg. 53420 (Sep. 8, 2005).

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- d) Procedures the Owner owner or Operator Must Follow operator must follow to Make Significant Changes make significant changes.
- 1) The owner or operator must first provide notice of and conduct a public meeting.
 - A) Public meeting. The owner or operator must hold a meeting with the public to solicit questions from the community and inform the community of its proposed modifications to its hazardous waste management activities. The owner or operator must post a sign-in sheet or otherwise provide a voluntary opportunity for people attending the meeting to provide their names and addresses.
 - B) Public notice. At least 30 days before the owner or operator plans to hold the meeting, it must issue a public notice in accordance with 35 Ill. Adm. Code 703.191(d).
 - 2) After holding the public meeting, the owner or operator must submit a modification request to the Agency that provides the following information:
 - A) It must describe the exact changes that the owner or operator wants and whether the changes are to information that the owner or operator provided pursuant to 35 Ill. Adm. Code 703.351(b) or to terms and conditions in the supplemental portion of its RCRA standardized permit;
 - B) It must explain why the modification is needed; and
 - C) It must include a summary of the public meeting held pursuant to subsection (d)(1) ~~of this Section~~, along with the list of attendees and their addresses and copies of any written comments or materials they submitted at the meeting.
 - 3) Once the Agency receives an owner's or operator's modification request, it must make a tentative determination within 120 days to approve or disapprove the request. The Agency is allowed a one time extension of 30 days to prepare the draft permit decision. When the use of the 30-day extension is anticipated, the Agency should inform the permit applicant during the initial 120-day review period.

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- 4) After the Agency makes its tentative determination, the procedures in Sections 705.302(b) and 705.303 for processing an initial request for coverage under the RCRA standardized permit apply to making the final determination on the modification request.

BOARD NOTE: Subsection (d) is derived from 40 CFR 124.214 (2017), as added at ~~70 Fed. Reg. 53420 (Sep. 8, 2005)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code citation: 35 Ill. Adm. Code 720
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
720.101	Amendment
720.102	Amendment
720.103	Amendment
720.104	Amendment
720.110	Amendment
720.111	Amendment
720.120	Amendment
720.121	Amendment
720.122	Amendment
720.134	Amendment
720.142	Amendment
720.143	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? Yes.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 9892; June 15, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to

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consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide 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 JCAR.

Since the Notices of Proposed Amendments appeared in the June 15, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table in itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? Yes.

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citation</u>
720.104	New Section	42 Ill. Reg. 15551; August 17, 2018
720.105	New Section	42 Ill. Reg. 15551; August 17, 2018
720.109	Renumbered, Amendment	42 Ill. Reg. 15551; August 17, 2018
720.111	Amendment	42 Ill. Reg. 15551; August 17, 2018
720.130	Amendment	42 Ill. Reg. 15551; August 17, 2018
720.131	Amendment	42 Ill. Reg. 15551; August 17, 2018
720.142	Amendment	42 Ill. Reg. 15551; August 17, 2018
720.143	Amendment	42 Ill. Reg. 15551; August 17, 2018

- 15) Summary and purpose of rulemaking: The amendments to Part 720 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 721 through 728, 730,

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733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 13(c) of the Act (415 ILCS 5/13(c) (2016)) requires the Board to adopt UIC rules that are identical-in-substance to UIC rules adopted by USEPA. The Illinois UIC rules are in 35 Ill. Adm. Code 704, 730, and 738. USEPA did not amend its UIC rules in any way that requires Board action during 2016 or 2017. Rather, the Board reviewed the Illinois UIC rules and finds that non-substantive revisions and corrections are needed in 35 Ill. Adm. Code 704, 730, and 738. *See* 415 ILCS 5/7.2(b) (2016). The Board opened docket R18-31 for this purpose and consolidated it with dockets R17-14, R17-15, and R18-12.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 720 incorporate USEPA's actions of November 28, 2016 adopting hazardous waste export-import revisions and the Generator Improvements Rule, the August 29, 2017 establishing the AES filing compliance date, and December 26, 2017 barring claims of CBI for hazardous waste import, export, and transit documents.

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The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 13(c) and 22.4(a) of the Environmental Protection Act [415 ILCS 5/13(c) and 22.4(a)] provide 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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste and Verified Facility Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
720.142	Notification Requirement for Hazardous Secondary Materials
720.143	Legitimate Recycling of Hazardous Secondary Materials

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720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations
(Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 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 R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008;

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amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.101 Purpose, Scope, and Applicability

- a) This Part provides definitions of terms, general standards, and overview information applicable to 35 Ill. Adm. Code 720 through 728, 733, 738, and 739.
- b) In this Part:
 - 1) Section 720.102 sets forth the rules that the Board and the Agency will use in making information it receives available to the public and sets forth the requirements that a generator, transporter, or owner or operator of a treatment, storage, or disposal facility must follow to assert claims of business confidentiality with respect to information that is submitted to the Board or the Agency for the purposes of compliance with 35 Ill. Adm. Code 720 through 728, 733, 738, and 739.
 - 2) Section 720.103 establishes rules of grammatical construction for ~~for~~ the purposes of compliance with 35 Ill. Adm. Code 720 through 728, 733, 738, and 739.
 - 3) Section 720.110 defines terms that are used in 35 Ill. Adm. Code 720 through 728, 733, 738, and 739.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.102 Availability of Information; Confidentiality of Information

- a) Availability and confidentiality of information is governed by Illinois law, including Sections 7 and 7.1 of the Environmental Protection Act ~~[415 ILCS 5/7 and 7.1]~~ and 35 Ill. Adm. Code 130.

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- b) Except as provided under ~~subsection (c) and (d) of this Section~~, any person who submits information to the Board or the Agency in accordance with this Part or 35 Ill. Adm. Code 721 through 728 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in 35 Ill. Adm. Code 130. Information covered by such a claim will be disclosed by the Board or the Agency only to the extent, and by means of the procedures, set forth in 35 Ill. Adm. Code 130. ~~Information required under 35 Ill. Adm. Code 722.153(a) and 722.183 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality or trade secret.~~
- c) Public Disclosure ~~disclosure of Hazardous Waste Manifest Documents hazardous waste manifest documents.~~
- 1) No claim of business confidentiality may be asserted by any person with respect to information entered on a hazardous waste manifest (USEPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (USEPA Form 8700-22A), or an e-Manifest format that may be prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3).
 - 2) USEPA has stated that it will make any e-Manifest that is prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3), or any paper manifest that is submitted to the e-Manifest System under 35 Ill. Adm. Code 724.171(a)(6) or 725.171(a)(6) available to the public under this Section when the electronic or paper manifest is a complete and final document. E-Manifests and paper manifests submitted to the e-Manifest System are complete and final documents, and they become publicly available information, after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.
- d) Claims of Confidentiality
- 1) No person may assert any claim of business confidentiality with respect to information contained in cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171,

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725.112, 725.171, and 727.171, whether submitted electronically into USEPA's Waste Import Export Tracking System or in paper format.

- 2) USEPA will make any cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a) and any hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171, 725.112, 725.171, and 727.171 available to the public under this Section when USEPA considers these electronic or paper documents to be final documents. USEPA considers these submitted electronic and paper documents related to hazardous waste exports, imports, and transits and cathode ray tube exports to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.103 Use of Number and Gender

As used in 35 Ill. Adm. Code 702, 703, 720 through 728, and 733, 738, and 739:

- a) Words in the masculine gender also include the feminine and neuter genders;
- b) Words in the singular include the plural; and
- c) Words in the plural include the singular.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.104 Electronic Reporting

- a) Scope and Applicability:
 - 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or

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- B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
- 2) Electronic document submission under this Section can occur only as follows:
- A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
 - B) For submissions of documents to the State, submissions may occur only under the following circumstances:
 - i) To the Board, into the Board's Clerk's Office On-Line (COOL) system at www.ipcb.state.il.us. As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;
 - ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing. As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the

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~~Board or the Agency may use that system until USEPA disapproves its use in writing; or~~

~~iii) — The Board or the Agency may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(e), and USEPA has not withdrawn its approval of the system in writing.~~

- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) ~~of this Section~~:
- A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B) ~~(iii) of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 (2017) ~~(2012)~~.

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- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for Submission Of Electronic Documents ~~submission of electronic documents in Lieu lieu of Paper Documents paper documents~~ to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ~~(2017)-(2012)~~.

- d) Procedures for Submission ~~submission of Electronic Documents electronic documents in Lieu lieu of Paper Documents paper documents~~ to the Board or the Agency.
- 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].
 - 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B) ~~of this Section~~.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ~~(2017)-(2012)~~.

- e) Effects of Submission ~~submission of an Electronic Document electronic document in Lieu lieu of Paper Documents paper documents~~.
- 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

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- 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3.4 and 3.2000(c) (2017)-(2012).

- f) Public Document Subject document ~~document~~ subject to State Laws ~~laws~~. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
 - 1) The Administrative Procedure Act ~~[5 ILCS 100]~~;
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act ~~[415 ILCS 5]~~;
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
 - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

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- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) ~~(2017)-(2012)~~.

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h) ~~(2017)-(2012)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 728, 733, 738, and 739 only, the following terms have the meanings given below:

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

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

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

“Acute hazardous waste” means hazardous waste that meets the listing criteria in 35 Ill. Adm. Code 721.111(a)(2) and therefore is either listed in 35 Ill. Adm. Code 721.131 with the assigned hazard code of (H) or is listed in 35 Ill. Adm. Code 721.133(e).

BOARD NOTE: These are USEPA hazardous waste numbers F020, F021, F022, F023, F026, and F027, and all USEPA hazardous waste numbers having the prefix “P”.

“Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator’s designee.

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“Agency” means the Illinois Environmental Protection Agency.

“Ancillary equipment” means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

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

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

“Battery” means a device that consists of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

“Board” means the Illinois Pollution Control Board.

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

Boiler by physical characteristics:

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

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boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

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

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

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

“Carbon dioxide stream” means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

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

“Cathode ray tube” or “CRT” means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A “used, intact CRT” means a CRT whose vacuum has not been released. A “used, broken CRT” means glass removed from its housing or casing whose vacuum has been released.

“Central accumulation area” means any on-site area where hazardous waste is accumulating in units subject to either 35 Ill. Adm. Code 722.116 (for an SQG) or 35 Ill. Adm. Code 722.117 (for an LQG). A central accumulation area at an eligible academic entity that chooses to operate under Subpart K of 35 Ill. Adm. Code 722 is also subject to 35 Ill. Adm. Code 722.311 when accumulating unwanted material or hazardous waste.

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

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

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

“Contained” means held in a unit (including a land-based unit, as defined in this Section) that meets either of the following containment situations:

Containment situation 1 (non-hazardous waste containment):

The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent unpermitted releases of hazardous secondary materials to the environment.

“Unpermitted releases” are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, windblown dust, fugitive air emissions, and catastrophic unit failures;

The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and

The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit, is compatible with the materials used to construct the unit, and addresses any potential risks of fires or explosions.

Containment situation 2 (hazardous waste containment):

Hazardous secondary materials in units that meet the applicable requirements of 35 Ill. Adm. Code 724 or 725 are presumptively contained.

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

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

“Containment building” means a hazardous waste management unit that is used to store or treat hazardous waste pursuant to the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

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

“Corrosion expert” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

“CRT collector” means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

“CRT exporter” means any person in the United States that initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

“CRT glass manufacturer” means an operation or part of an operation that uses a furnace to manufacture CRT glass.

“CRT processing” means conducting all of the following activities:

Receiving broken or intact CRTs;

Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

Sorting or otherwise managing glass removed from CRT monitors.

“Designated facility” means either of the following entities:

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A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

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

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271; or

The facility is regulated pursuant to 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

A generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

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

“Destination facility” means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

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

“Dioxins and furans” means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

“Director” means the Director of the Illinois Environmental Protection Agency.

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

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

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

“Electronic import-export reporting compliance date” means the date that USEPA will announce in the Federal Register, on or after which exporters, importers, and receiving facilities will be required to submit certain export and import related documents to USEPA using USEPA’s Waste Import Export Tracking System, or its successor system.

BOARD NOTE: A compliance date in Illinois regulations is limited to a date certain on or after the Board has adopted the date by rulemaking. Adoption by rulemaking of the electronic import-export reporting compliance date can occur only after USEPA has made its announcement in the Federal Register. Until the Board has incorporated a date certain by rulemaking, the Board intends that no “electronic import-export reporting compliance date” will apply in the context of the Illinois rules. The federal electronic import-export reporting compliance date named by USEPA, however, may apply as provided by federal law.

“Electronic manifest” or “e-Manifest” means the electronic format of the hazardous waste manifest that is obtained from USEPA’s national e-Manifest System and transmitted electronically to the e-Manifest System, and which is the legal equivalent of USEPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

“Electronic Manifest System” or “e-Manifest System” means USEPA’s national information technology system through which the e-Manifest may be obtained,

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completed, transmitted, and distributed to users of the e-Manifest System and to regulatory agencies.

“Elementary neutralization unit” means a device of which the following is true:

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

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

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

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

“EPA region” or “USEPA region” means the states and territories found in any one of the following 10 regions:

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

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

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

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

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

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

Region VII: Nebraska, Kansas, Missouri, and Iowa.

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

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

Region X: Washington, Oregon, Idaho, and Alaska.

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

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

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

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

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

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

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

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

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“Explosives or munitions emergency” means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

“Explosives or munitions emergency response” means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

“Explosives or munitions emergency response specialist” means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

“Facility” means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action pursuant to 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under

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the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action pursuant to RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

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

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

“Final closure” means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities pursuant to 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.116-722.134.

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

“Freeboard” means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

“Free liquids” means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

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

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

“Hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste pursuant to 35 Ill. Adm. Code 721.

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“Hazardous secondary material generator” means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

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

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

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

~~“Inactive portion” means that portion of a facility that was not operated after November 19, 1980. (See also “active portion” and “closed portion.”)~~

“Incinerator” means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility:

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

“Incompatible waste” means a hazardous waste that is unsuitable for the following:

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

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

(See Appendix E to 35 Ill. Adm. Code 724 and Appendix E to 35 Ill. Adm. Code 725 for references that list examples.)

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

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

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

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

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

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid

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product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

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

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

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

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

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

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

Other relevant factors.

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

“Infrared incinerator” means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

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

“In operation” refers to a facility that is treating, storing, or disposing of hazardous waste.

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

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

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

“Intermediate facility” means any facility that stores hazardous secondary materials for more than 10 days and which is neither a hazardous secondary material generator nor a reclaimer of hazardous secondary material.

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

“Lamp” or “universal waste lamp” means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

“Land-based unit” means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

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

“Landfill” means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

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

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“Large quantity generator” or “LQG” means a generator that generates any of the following amounts of material in a calendar month:

Greater than or equal to 1,000 kg (2,200 lbs) of non-acute hazardous waste;

Greater than 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); or

Greater than 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

“LDS” means leak detection system.

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

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

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

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

“Manifest” means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A), or the e-Manifest, originated and signed in accordance with the applicable requirements of 35 Ill. Adm. Code 722 through 727.

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“Manifest tracking number” means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

“Mercury-containing equipment” means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

“Military munitions” means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE’s nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

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

“Miscellaneous unit” means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards pursuant to 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit pursuant to 35 Ill. Adm. Code 703.231; or staging pile.

“Movement” means hazardous waste that is transported to a facility in an individual vehicle.

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“NAICS Code” means the code number assigned a facility using the “North American Industry Classification System;”, incorporated by reference in Section 720.111.

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

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

“No free liquids;”, as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods;”, incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.

“Non-acute hazardous waste” means hazardous waste that is not acute hazardous waste, as defined in this Section.

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

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

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

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

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

Control of emission of the gaseous combustion products.

(See also “incineration” and “thermal treatment.”.)

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

“Owner” means the person that owns a facility or part of a facility.

“Partial closure” means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

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

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

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512

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(21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCFA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: “Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug.”. This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

“Pile” means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

“Plasma arc incinerator” means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

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

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

“Qualified groundwater scientist” means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to

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225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

“RCRA” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

“RCRA standardized permit” means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

“Recognized trader” means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

“Regional Administrator” means the Regional Administrator for the USEPA region in which the facility is located or the Regional Administrator’s designee.

“Remanufacturing” means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

“Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

“Remediation waste management site” means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action pursuant to 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

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“Replacement unit” means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

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

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

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

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

“SIC code” means “Standard Industrial Classification code;”, as assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication “Standard Industrial Classification Manual;”, incorporated by reference in Section 720.111(a).

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

“Sludge dryer” means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

“Small quantity generator” or “SQG” means a generator that generates the following amounts less than 1,000 kg of material hazardous waste in a calendar month:-

Greater than 100 kg (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste;

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Less than or equal to 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and

Less than or equal to 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

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

“Solvent-contaminated wipe” means the following:

A wipe that, after use or after cleaning up a spill, fulfills one or more of the following conditions:

The wipe contains one or more of the F001 through F005 solvents listed in 35 Ill. Adm. Code 721.131 or the corresponding P- or U-listed solvents found in 35 Ill. Adm. Code 721.133;

The wipe exhibits a hazardous characteristic found in Subpart C of 35 Ill. Adm. Code 721 when that characteristic results from a solvent listed in 35 Ill. Adm. Code 721; or

The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence of one or more solvents that are not listed in 35 Ill. Adm. Code 721.

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at 35 Ill. Adm. Code 721.104(a)(26) and (b)(18).

“Sorbent” means a material that is used to soak up free liquids by either adsorption or absorption, or both. “Sorb” means to either adsorb or absorb, or both.

“Staging pile” means an accumulation of solid, non-flowing “remediation waste” (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to 35 Ill. Adm. Code 724.654.

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

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

“Sump” means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

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

“Tank” means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

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

“TEQ” means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

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

“Thermostat” means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

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

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

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

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

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

“Treatability study” means the following:

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

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes;
and

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

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies.

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A treatability study is not a means to commercially treat or dispose of hazardous waste.

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

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

“Underground injection” means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also “injection well.”)

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

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

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

“Universal waste” means any of the following hazardous wastes that are managed pursuant to the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;
and

Lamps, as described in 35 Ill. Adm. Code 733.105.

“Universal waste handler” means either of the following:

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A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

“Universal waste handler” does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

“Universal waste transporter” means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

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

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

“USDOT” or “Department of Transportation” means the United States Department of Transportation.

“Used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

“USEPA” or “EPA” means the United States Environmental Protection Agency.

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

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“USEPA identification number” or “USEPA ID number” is the unique alphanumeric identifier that USEPA assigns a hazardous waste generator; transporter; treatment, storage, or disposal facility; or reclamation facility upon notification in compliance with the requirements of section 3010 of RCRA (42 USC 6930).

“User of the Electronic Manifest System” or “user of the e-Manifest System” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person or entity—

that is required to use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either—

hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

which elects to use either—

the e-Manifest System to obtain, complete and transmit an e-Manifest format supplied by the USEPA e-Manifest System; or

the paper manifest form and submits to the e-Manifest System for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 35 Ill. Adm. Code 724.171(a)(2)(E) or 725.171(a)(2)(E).

A paper copy submitted for data processing purposes is submitted for data exchange purposes only and is not the official copy of record for legal purposes.

“USPS” means the United States Postal Service.

“Very small quantity generator” or “VSQG” means a generator that generates less than or equal to the following amounts of material in a calendar month:

100 kg (220 lbs) of nonacute hazardous waste;

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1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and

100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

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

“Wastewater treatment unit” means a device of which the following is true:

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

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

It meets the definition of tank or tank system in this Section.

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

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

“Well injection” (See “underground injection-”.)

“Wipe” means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

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

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

“Accreditation Council for Graduate Medical Education: Glossary of Terms;”, March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

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

ACI 318-83: “Building Code Requirements for Reinforced Concrete;”, adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

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

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

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

“Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems;”, API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

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“Evaporative Loss from External Floating-Roof Tanks;”, API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 721.983 and 725.984.

“Guide for Inspection of Refinery Equipment;”, Chapter XIII, “Atmospheric and Low Pressure Storage Tanks;”, 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 721.291, 724.291, 724.293, 725.291, and 725.292.

“Installation of Underground Petroleum Storage Systems;”, API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

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

“Chemical Plant and Petroleum Refinery Piping;”, ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

“Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols;”, ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, “Standard Specification for Ready-Mixed Concrete;”, approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, “Standard Test Method for Saybolt Viscosity;”, approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 93-85, “Standard Test Methods for Flash Point by Pensky-Martens Closed Tester;”, approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

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ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials," approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis," approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes," approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," approved 1992, USEPA-approved for

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35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 721.963, 724.963, and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, ~~DC D.C.~~ 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004)

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(document number 955-001-00000-1). See below in this subsection (a) under NTIS.

ISO. Available from the International Organization for Standardization, BIBC II, Chemin de Blandonne 8, CP 401, 1214 Vernier, Geneva, Switzerland (phone: +41 22 749 01 11; www.iso.org/stare):

International Standard ISO 3166-1:2013, “Codes for the representation of names of countries and their subdivisions—Part 1: Country code”, Third edition (2013), referenced in 35 Ill. Adm. Code 702.183 and Section 722.182.

BOARD NOTE: ISO maintains a web page with a free on-line list of country codes: <https://www.iso.org/obp/ui/#search>.

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

“Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems;”, NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

“Flammable and Combustible Liquids Code”, NFPA 30 (1977), referenced in 35 Ill. Adm. Code 722.116.

“Flammable and Combustible Liquids Code”, NFPA 30 (1981), referenced in 35 Ill. Adm. Code 722.116.

“Flammable and Combustible Liquids Code;”, NFPA 30, issued July 14, (1984), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

“Flammable and Combustible Liquids Code;”, NFPA 30, issued August 7, (1987), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

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“Flammable and Combustible Liquids Code;”, NFPA 30, ~~issued July 18, (2003)~~, as supplemented by TIA 03-1, ~~issued July 15, (2004)~~, and corrected by Errata 30-03-01, ~~issued August 13, (2004)~~, referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

“Standard System for the Identification of the Hazards of Materials for Emergency Response”, NFPA 704 (2012 or 2017), referenced in 35 Ill. Adm. Code 722.114 and 722.116.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: www.ntis.gov):

“APTI Course 415: Control of Gaseous Emissions;”, December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: “APTI” denotes USEPA’s “Air Pollution Training Institute” (Internet address: www.epa.gov/air/oaqps/eog/).

“Generic Quality Assurance Project Plan for Land Disposal Restrictions Program;”, USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry;”, Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for

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Environmental Publications (NSCEP) website at
www.epa.gov/nscep/index.html.

“Methods for Chemical Analysis of Water and Wastes;”, Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

“North American Industry Classification System;”, July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of “NAICS Code”) for the purposes of Section 720.142, and in 35 Ill. Adm. Code 721.104.

BOARD NOTE: Also available on the Internet from the Bureau of Census: www.census.gov/naics/2007/naicod07.htm.

“Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities;”, August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources;”, October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address:
www.epa.gov/scram001/guidance/guide/scrng.wpd.

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods;”, USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993),

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IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar® Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix

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I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/C12 Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

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Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 721.934, 721.963, 724.934, 724.963, 725.934, and 725.963.

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for 35 Ill. Adm. Code 720.110; Appendix I to 35 Ill. Adm. Code 721; and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. ~~Organization~~ ~~Organisation~~ for Economic ~~Cooperation~~ ~~Co-operation~~ and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," 2009 (also called "Guidance Manual for the Control of Transboundary Movements of Recoverable Materials" in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

~~"Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156" (also called "Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations" within the text of Annex A, and "Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations" in the original OECD decision~~

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~~source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).~~

“Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure” (individually referred to as “Annex B to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX (“List B”) to the “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal” (“Basel Convention”).

“Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure” (individually referred to as “Annex C to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II (“Categories of Wastes Requiring Special Consideration”) and VIII (“List A”) to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and

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Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, “Ready Biodegradability;”, Method 301B (July 17, 1992), “CO₂ Evolution (Modified Sturm Test);”, referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

“Standard for Dual Wall Underground Steel Storage Tanks” (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

“DOD Ammunition and Explosives Safety Standards” (DOD 6055.09-STD), as in effect on February 29, 2008 and revised December 15, 2017, December 18, 2017, December 29, 2017, and January 24, 2018, referenced in 35 Ill. Adm. Code 726.305.

“The Motor Vehicle Inspection Report” (DD Form 626), as in effect in October 2011 ~~March 2007~~, referenced in 35 Ill. Adm. Code 726.303.

“Requisition Tracking Form” (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

“The Signature and Tally Record” (DD Form 1907), as in effect in October 2011 ~~November 2006~~, referenced in 35 Ill. Adm. Code 726.303.

“DOD Multimodal Dangerous Goods Declaration” (DD Form 2890) ~~“Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles” (DD Form 836)~~, as in effect in September 2015 ~~December 2007~~, referenced in 35 Ill. Adm. Code 726.303.

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BOARD NOTE: DOD 6055.09, ~~DD Form 626, -STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>.~~ DD Form 1348, DD Form 1907, ~~DD Form 836,~~ and DD Form 2890 ~~DOD 6055.09-STD~~ are available on-line for download in pdf format from www.esd.whs.mil/DD/ ~~<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.~~

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

“Inventory of Injection Wells;”, USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

“Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells;”, USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised;”, October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

“EPA RCRA Delisting Program—Guidance Manual for the Petitioner;”, March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

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Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from www.gsa.gov/forms/forms.htm.

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

10 CFR 20.2006 ~~(2018)-(2015)~~ (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 ~~(2018)-(2015)~~ (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 ~~(2018)-(2015)~~ (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 ~~(2018)-(2015)~~ (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 ~~(2018)-(2015)~~ (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

15 CFR 30.4(b) (2018) (Electronic Export Information Filing, Procedures, Deadlines, and Certification Statements), referenced in 35 Ill. Adm. Code 721.139.

15 CFR 30.6 (2018) (Electronic Export Information Data Elements), referenced in 35 Ill. Adm. Code 721.139.

29 CFR 1910.1200 (2018) (Hazard Communication), referenced in 35 Ill. Adm. Code 722.115.

33 CFR 153.203 ~~(2017)-(2015)~~ (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

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40 CFR 3.3 ~~(2017)~~~~(2015)~~ (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 ~~(2017)~~~~(2015)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 ~~(2017)~~~~(2015)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) ~~(2018)~~~~(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 ~~(2018)~~~~(2015)~~ (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 ~~(2017)~~~~(2015)~~ (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 ~~(2018)~~~~(2015)~~ (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 ~~(2018)~~~~(2015)~~ (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 ~~(2018)~~~~(2015)~~ (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

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Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 721.934, 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

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Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

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Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 721.933, 721.934, 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 721.934, 721.935, 721.963, 721.983, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 721.933, 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 721.934, 724.934, and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 721.983, 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 721.986, 724.986, and 725.987.

40 CFR 61 ~~(2018)~~~~(2015)~~ (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 ~~(2018)~~~~(2015)~~ (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

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Subpart FF of 40 CFR 61 ~~(2018)~~-(2015) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 ~~(2018)~~-(2015) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 ~~(2018)~~-(2015) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984, 724.984, 724.985, 725.985, and 725.986.

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63 ~~(2018)~~-(2015) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 ~~(2018)~~-(2015) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Appendix C to 40 CFR 63 ~~(2018)~~-(2015) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

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Appendix D to 40 CFR 63 ~~(2018)-(2015)~~ (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) ~~(2018)-(2015)~~, referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 ~~(2018)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 ~~(2017)-(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 ~~(2017)-(2015)~~ (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

~~Subpart B of 40 CFR 257 (2015) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.~~

40 CFR 258 ~~(2017)-(2015)~~ (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) ~~(2018)-(2015)~~ (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 ~~(2018)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 ~~(2018)-(2015)~~ (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

~~40 CFR 262.53 (2015) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.~~

~~40 CFR 262.54 (2015) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.~~

~~40 CFR 262.55 (2015) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.~~

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~~40 CFR 262.56 (2015) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.~~

~~40 CFR 262.57 (2015) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.~~

Appendix to 40 CFR 262 ~~(2018)~~-(2015) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 ~~(2018)~~-(2015) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264 ~~(2018)~~-(2015) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 ~~(2018)~~-(2015) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 ~~(2018)~~-(2015) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 ~~(2018)~~-(2015) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265 ~~(2018)~~-(2015) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 ~~(2018)~~-(2015) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 ~~(2018)~~-(2015) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 ~~(2018)~~-(2015) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301,

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725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 ~~(2017)-(2015)~~ (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces," December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151 ~~(2017)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 ~~(2017)-(2015)~~ (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 302 ~~(2018)-(2015)~~ (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 711.15(a)(4)(i)(C) ~~(2018)-(2015)~~ (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 ~~(2018)-(2015)~~ (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 ~~(2018)-(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

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40 CFR 761.60 (2018)-(2015) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2018)-(2015) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2018)-(2015) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 (2017)-(2014) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 (2017)-(2014) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 (2017)-(2014) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2017)-(2014)(Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2017)-(2014) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 (2017)-(2014) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2017)-(2014) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

Table to 49 CFR 172.101 (2017) (Hazardous Materials Table), referenced in 35 Ill. Adm. Code 722.183, 722.184, 724.112, and 725.112.

49 CFR 172.304 (2017)-(2014) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

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Subpart C of 49 CFR 172 ~~(2017)~~-(2014) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

Subpart E of 49 CFR 172 (2017) (Labeling), referenced in 35 Ill. Adm. Code 722.114 and 722.115.

Subpart F of 49 CFR 172 ~~(2017)~~-(2014) (Placarding), referenced in 35 Ill. Adm. Code 722.114, 722.115, and 722.133.

49 CFR 173 ~~(2017)~~-(2014) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 ~~(2017)~~-(2014) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 ~~(2017)~~-(2014) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 ~~(2017)~~-(2014) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 ~~(2017)~~-(2014) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 ~~(2017)~~-(2014) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 ~~(2017)~~-(2014) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 ~~(2017)~~-(2014) (Class 2, Divisions 2.1, 2.2, and 2.3—Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 ~~(2017)~~-(2014) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ~~(2017)~~-(2014) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

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49 CFR 176 ~~(2017)~~-(2014) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ~~(2017)~~-(2014) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 ~~(2017)~~-(2014) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 ~~(2017)~~-(2014) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ~~(2017)~~-(2014) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 ~~(2017)~~-(2014) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 ~~(2017)~~-(2014) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 ~~(2017)~~-(2014) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 ~~(2017)~~-(2014) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 ~~(2017)~~-(2014) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 ~~(2017)~~-(2014) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 ~~(2017)~~-(2014) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

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49 CFR 196 ~~(2017)-(2014)~~ (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 ~~(2017)-(2014)~~ (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 ~~(2017)-(2014)~~ (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014 ~~(2016)~~ ~~(2013)~~), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 301, 304, 307, and 402 of the Clean Water Act (33 USC 1311, 1314, 1337, and 1342 ~~(2016)-(2013)~~), referenced in 35 Ill. Adm. Code 721.293.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j) ~~(2016)~~ ~~(2013)~~), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1004 of the Resource Conservation and Recovery Act (42 USC 6903 ~~(2016)-(2013)~~), referenced in 35 Ill. Adm. Code ~~721.931, 721.951, and 721.981, 724.931, 724.981, 725.931, 725.951, and 725.981.~~

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140 ~~(2016)-(2013)~~), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1) ~~(2015)~~ ~~(2012)~~), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.120 Rulemaking

- a) Any person may petition the Board to adopt as State regulations rules that are identical in substance with newly-adopted federal amendments or regulations. The petition must take the form of a proposal for rulemaking pursuant to 35 Ill.

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Adm. Code 102. The proposal must include a listing of all amendments to 40 CFR 260 through 268, 273, or 279 that have been made since the last preceding amendment or proposal to amend 35 Ill. Adm. Code 720 through 728, 733, or 739, pursuant to Section 22.4(a) of the Environmental Protection Act [~~415 ILCS 5/22.4(a)~~].

- b) Any person may petition the Board to adopt amendments or additional regulations not identical in substance with federal regulations. Such proposal must conform to 35 Ill. Adm. Code 102 and Section 22.4(b) or 22.4(c) and Title VII of the Environmental Protection Act [~~415 ILCS 5/22.4(b) or (c) and Title VII~~].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.121 Alternative Equivalent Testing Methods

- a) The Agency has no authority to alter the universe of regulated wastes. Modification of testing methods that are stated in 35 Ill. Adm. Code 721 requires rulemaking pursuant to Section 720.120. However, deviation from these methods is allowed under 35 Ill. Adm. Code 721, as observed, for example, in the Board Note appended to 35 Ill. Adm. Code 721.120(c).
- b) The Agency may approve alternative equivalent testing methods for a particular person's use to determine whether specified waste streams are subject to these regulations. This must be done by permit condition or letter. Any petition to the Board or request to the Agency concerning alternative equivalent testing methods must include the information required by 40 CFR 260.21(b), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) The testing methods specified in 35 Ill. Adm. Code 721 or alternative equivalent testing methods approved by the Agency need not be applied to identify or distinguish waste streams that are known, admitted, or assumed to be subject to these regulations. In this case, any method may be used, subject to the Agency's authority to approve the testing procedures used.
- d) If USEPA amends the federal regulations to allow the use of a new testing method, USEPA has stated that it will incorporate the new method by reference in 40 CFR 260.11 and add it to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846, incorporated by reference in Section 720.111(b).

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- e) Alternative equivalent testing methods will not be approved if the result of the approval would make the Illinois RCRA Subtitle C program less than substantially equivalent to the federal.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.122 Waste Delisting

- a) Any person seeking to exclude a waste from a particular generating facility from the lists in Subpart D of 35 Ill. Adm. Code 721 may file a petition, as specified in subsection (n) ~~of this Section~~. The Board will grant the petition if the following occur:
- 1) The petitioner demonstrates that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or acute hazardous waste; and
 - 2) The Board determines that there is a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner;”, incorporated by reference in Section 720.111(a). A waste that is so excluded, however, still may be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- b) ~~Listed Wastes~~ ~~wastes~~ and ~~Mixtures~~ ~~mixtures~~. A person may also petition the Board to exclude from 35 Ill. Adm. Code 721.103(a)(2)(B) or (c), a waste that is described in these Sections and is either a waste listed in Subpart D of 35 Ill. Adm. Code 721, or is derived from a waste listed in that Subpart. This exclusion may only be granted for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by subsection (a) ~~of this Section~~. Where the waste is a mixture of a solid waste and one or more listed hazardous wastes or is derived from one or more listed hazardous wastes, the demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste that is so excluded may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.

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- c) Ignitable, Corrosive, Reactive ~~corrosive, reactive~~ and Toxicity Characteristic Wastes ~~toxicity characteristic wastes~~. If the waste is listed in codes “I₇”, “C₇”, “R₇”, or “E” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste does not exhibit the relevant characteristic for which the waste was listed, as defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections. The petitioner must also show that the waste does not exhibit any of the other characteristics, defined in those Sections, using any applicable methods prescribed in those Sections; and
 - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner,” incorporated by reference in Section 720.111(a). A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- d) Toxic Waste ~~waste~~. If the waste is listed in code “T” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste fulfills the following criteria:
 - A) It does not contain the constituent or constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste; or
 - B) Although containing one or more of the hazardous constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste, the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K) under which the waste was listed as hazardous.
 - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents)

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other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

- 3) The petitioner must demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections.
 - 4) A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- e) Acute Hazardous Waste ~~hazardous waste~~. If the waste is listed with the code “H” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(2); and
 - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner,” incorporated by reference in Section 720.111(a).
 - 3) The petitioner must demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections.
 - 4) A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- f) This subsection (f) corresponds with 40 CFR 260.22(f), which USEPA has marked “reserved.”. This statement maintains structural consistency with the federal regulations.
- g) This subsection (g) corresponds with 40 CFR 260.22(g), which USEPA has marked “reserved.”. This statement maintains structural consistency with the federal regulations.

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- h) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.
- i) Each petition must include, in addition to the information required by subsection (n) ~~of this Section~~:
 - 1) The name and address of the laboratory facility performing the sampling or tests of the waste;
 - 2) The names and qualifications of the persons sampling and testing the waste;
 - 3) The dates of sampling and testing;
 - 4) The location of the generating facility;
 - 5) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
 - 6) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
 - 7) Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in 35 Ill. Adm. Code 721.111(a)(3);
 - 8) A description of the methodologies and equipment used to obtain the representative samples;
 - 9) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization, and preservation of the samples;
 - 10) A description of the tests performed (including results);
 - 11) The names and model numbers of the instruments used in performing the tests; and

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- 12) The following statement signed by the generator or the generator's authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- j) After receiving a petition, the Board may request any additional information that the Board needs to evaluate the petition.
- k) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.
- l) The Board will exclude only part of the waste for which the demonstration is submitted if the Board determines that variability of the waste justifies a partial exclusion.

BOARD NOTE: See "EPA RCRA Delisting Program—Guidance Manual for the Petitioner," incorporated by reference in Section 720.111(a).

- m) Delisting of specific wastes from specific sources that have been adopted by USEPA may be proposed as State regulations that are identical in substance pursuant to Section 720.120(a).
- n) Delistings that have not been adopted by USEPA may be proposed to the Board pursuant to a petition for adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104. The justification for the adjusted standard is as specified in subsections (a) through (g) of this Section, as applicable to the waste in question. The petition must be clearly labeled as a RCRA delisting adjusted standard petition.
- 1) In accordance with 35 Ill. Adm. Code 101.304, the petitioner must serve copies of the petition, and any other documents filed with the Board, on USEPA at the following addresses:

USEPA
Office of Resource Conservation and Recovery

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1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

USEPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

- 2) The Board will mail copies of all opinions and orders to USEPA at the above addresses.
- 3) In conjunction with the normal updating of the RCRA regulations, the Board will maintain, in Appendix I of 35 Ill. Adm. Code 721, a listing of all adjusted standards granted by the Board.
- o) The Agency may determine in a permit or a letter directed to a generator that, based on 35 Ill. Adm. Code 721, a waste from a particular source is not subject to these regulations. Such a finding is evidence against the Agency in any subsequent proceedings but will not be conclusive with reference to other persons or the Board.
- p) Any petition to delist directed to the Board or request for determination directed to the Agency must include a showing that the waste will be generated or managed in Illinois.
- q) The Board will not grant any petition that would render the Illinois RCRA program less stringent than if the decision were made by USEPA.
- r) Delistings apply only within Illinois. Generators must comply with 35 Ill. Adm. Code 722 for waste that is hazardous in any state to which it is to be transported.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.134 Non-Waste Determinations

- a) A person generating, managing, or reclaiming hazardous secondary material may petition the Board pursuant to this Section, Section 720.133 and Section 28.2 of the Act [~~415 ILCS 5/28.2~~] for an adjusted standard that is a formal determination that a hazardous secondary material is not discarded and therefore is not a solid waste. The Board's adjusted standard determination will be based on the criteria contained in either subsection (b) or (c), as applicable. If the Board denies the petition, the hazardous secondary material might still be eligible for a solid waste determination or verified facility determination pursuant to Section 720.131 or an

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exclusion. A determination made by the Board pursuant to this Section becomes effective upon occurrence of the first of the following two events:

- 1) After USEPA has authorized Illinois to administer this segment of the hazardous waste regulations, the determination is effective upon issuance of the Board order that grants the non-waste determination; or
 - 2) Before USEPA has granted such authorization, the non-waste determination becomes effective upon fulfillment of all of the following conditions:
 - A) The Board has granted an adjusted standard which determines that the hazardous secondary material meets the criteria in either subsection (b) or (c), as applicable;
 - B) The Agency has requested that USEPA review the Board's non-waste determination; and
 - C) USEPA has approved the Board's non-waste determination.
- b) The Board will grant a non-waste determination for hazardous secondary material that is reclaimed in a continuous industrial process if the Board determines that the applicant has demonstrated that the hazardous secondary material is a part of the production process and the material is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled, as determined pursuant to Section 720.143, and on the following criteria:
- 1) The extent to which the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;
 - 2) Whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);
 - 3) Whether the hazardous constituents in the hazardous secondary material are reclaimed, rather than released to the air, water, or land, at significantly higher levels, from either a statistical or from a health and environmental risk perspective, than would otherwise be released by the production process; and

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- 4) Other relevant factors which demonstrate that the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under 35 Ill. Adm. Code 721.102 or 721.104.
- c) The Board will grant a non-waste determination for a hazardous secondary material that is indistinguishable in all relevant aspects from a product or intermediate if the petitioner demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The Board's determination will be based on whether the hazardous secondary material is legitimately recycled, as determined pursuant to Section 720.143, and on the following criteria:
- 1) Whether market participants treat the hazardous secondary material as a product or intermediate, rather than as a waste (for example, based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);
 - 2) Whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;
 - 3) Whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);
 - 4) Whether the hazardous constituents in the hazardous secondary material are reclaimed, rather than released to the air, water, or land, at significantly higher levels, from either a statistical or from a health and environmental risk perspective, than would otherwise be released by the production process; and
 - 5) Other relevant factors which demonstrate that the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under 35 Ill. Adm. Code 721.102 or 721.104.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 720.142 Notification Requirement for Hazardous Secondary Materials

- a) A facility that manages hazardous secondary materials which are excluded from regulation under 35 Ill. Adm. Code 721.104(a)(23), (a)(24), or (a)(27) must send a notification to USEPA Region 5. The notification must occur prior to operating under the regulatory provision and before March 1 of every even-numbered calendar year thereafter using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). The notification must include the following information:
- 1) The name, address, and USEPA identification number (if applicable) of the facility;
 - 2) The name and telephone number of a contact person for the facility;
 - 3) The NAICS code of the facility;
- BOARD NOTE: Determined using the “North American Industry Classification System;”, incorporated by reference in Section 720.111.
- 4) The regulation under which the facility will manage the hazardous secondary materials;
 - 5) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
 - 6) A list of hazardous secondary materials that the facility will manage according to the regulation (reported as the USEPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
 - 7) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
 - 8) The quantity of each hazardous secondary material to be managed annually; and
 - 9) The certification (included in USEPA Form 8700-12) signed and dated by an authorized representative of the facility.
- b) If a facility that manages hazardous secondary material has submitted a notification, but then subsequently ceases managing hazardous secondary

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materials in accordance with a regulation listed in subsection (a), the facility owner or operator must notify the Agency within 30 days after the cessation using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under the regulation listed in subsection (a), and the facility owner or operator does not expect to manage any amount of hazardous secondary materials for at least one year.

BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification of regulated waste activity.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.143 Legitimate Recycling of Hazardous Secondary Materials

- a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not the subject of legitimate recycling is discarded material and is a solid waste. A determination that an activity is legitimate recycling must address all the requirements of this subsection (a).
 - 1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it fulfills one of the following criteria:
 - A) The material contributes valuable ingredients to a product or intermediate;
 - B) The material replaces a catalyst or carrier in the recycling process;
 - C) The material is the source of a valuable constituent recovered in the recycling process;
 - D) The material is recovered or regenerated by the recycling process;
or
 - E) The material is used as an effective substitute for a commercial product.

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- 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if either of the following is true:
 - A) The product or intermediate is sold to a third party; or
 - B) The product or intermediate is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
- 3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and which are not recovered immediately are discarded material.
- 4) The product of the recycling process must be comparable to a legitimate product or intermediate as follows:
 - A) Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if both of the following conditions are true:
 - i) The product of the recycling process does not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit; and
 - ii) The concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely recognized commodity standards and specifications, where the commodity standards and specifications include levels that specifically address those hazardous constituents.

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- B) Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if either of the following conditions is true:
- i) The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals); or
 - ii) The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).
- C) If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as provided in subsection (a)(4)(A) or (a)(4)(B), the recycling still may be shown to be legitimate if the person performing the recycling fulfills the following requirements:
- i) The person performing the recycling must conduct the necessary assessment and prepare documentation which demonstrates that the recycling is, in fact, still legitimate;
 - ii) The assessment and documentation demonstrate that the recycling is legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk;
 - iii) The documentation must include a certification statement that the recycling is legitimate, and the assessment and documentation must be maintained on-site for three years after the recycling operation has ceased; and
 - iv) The person performing the recycling must notify USEPA and the Agency of the recycling activity using USEPA Form 8700-12.

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- b) This subsection (b) corresponds with 40 CFR 260.43(b), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the corresponding federal rules.
- c) This subsection (c) corresponds with 40 CFR 260.43(c), which USEPA has removed and marked “reserved.” This statement maintains structural consistency with the corresponding federal rules.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code citation: 35 Ill. Adm. Code 810
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
810.103	Amendment
810.104	Amendment
810.105	Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? Yes.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12782; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The Board revised the definition of "municipal solid waste landfill unit" to use federal language from 40 C.F.R. § 258.2 rather than Section 3.160 of the Environmental Protection Act [415 ILCS 5/3.160]. All other differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without

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deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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 JCAR.

Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table in itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.
- 15) Summary and purpose of rulemaking: The amendments to Part 810 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, 739, 811, and 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the *Illinois Register*. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.40(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules. Section 22.40(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois MSWLF rules are in 35 Ill. Adm. Code 810 through 814. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois landfill rules and consolidated it with dockets R17-14, R17-15, and R18-12.

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To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 810 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed. A significant correction is revising the definition of "municipal solid waste landfill unit" to follow the USEPA definition of the term instead of Section 3.160 of the Environmental Protection Act [415 ILCS 5/3.160].

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] 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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620.
You may also obtain a copy of the Board's opinion and order from the Internet at
<http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference
810.105	Electronic Reporting

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16167, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10837, effective June 22, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7253, effective March 13, 2014; amended in R15-8 at 38 Ill. Reg. 23458, effective November 24, 2014; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

Section 810.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act (Act)[415 ILCS 5]:

“Act” means the Environmental Protection Act [415 ILCS 5].

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“Admixtures” are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite, and sodium silicate.

“Agency” is the Environmental Protection Agency established by the Environmental Protection Act. [415 ILCS 5/3.105]

“Applicant” means the person submitting an application to the Agency for a permit for a solid waste disposal facility.

“Aquifer” means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3])

“Bedrock” means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium, or glacial drift.

“Beneficially usable waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents which exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“Board” is the Pollution Control Board established by the Act. [415 ILCS 5/3.130]

“Borrow area” means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways, or berms.

“Chemical waste” means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

“Coal combustion power generating facilities” means establishments that generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

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“Contaminated leachate” means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

“Dead animal disposal site” means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and regulations adopted pursuant thereto (8 Ill. Adm. Code 90).

“Design ~~period~~ ~~Period~~” means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

“Disturbed areas” means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

“Documentation” means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

“Earth liners” means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

“Existing facility” or “Existing unit” means a facility or unit that is not defined in this Section as a new facility or a new unit.

“Existing MSWLF unit” means any municipal solid waste landfill unit that has received household waste before October 9, 1993. [415 ILCS 5/3.285]

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“Facility” means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. All structures used in connection with or to facilitate the waste disposal operation will be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

“Field capacity” means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

“Foundry sand” means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

“Gas collection system” means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collects and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

“Gas condensate” means the liquid formed as a landfill gas is cooled or compressed.

“Gas venting system” means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

“Geomembranes” means manufactured membrane liners and barriers of low permeability used to control the migration of fluids or gases.

“Geotextiles” are permeable manufactured materials used for purposes that include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, and collecting and draining liquids and gases beneath the ground surface.

“Groundwater” means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is

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equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)

“Household waste” means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). [415 ILCS 5/3.230]

“Hydraulic barriers” means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to, cutoff walls, slurry walls, grout curtains, and liners.

“Inert waste” means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

“Iron slag” means slag.

“Land application unit” means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

“Landfill” means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

“Lateral expansion” means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. A horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. [415 ILCS 5/3.275]

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“Leachate” means liquid that has been or is in direct contact with a solid waste.

“Lift” means an accumulation of waste that is compacted into a unit and over which cover is placed.

“Low risk waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“Malodor” means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be described as malodorous and which may be injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* [415 ILCS 5/3.115] (defining “air pollution”)

“Municipal solid waste landfill unit” or “MSWLF unit” means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile. A MSWLF unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit. The term injection well is defined in 35 Ill. Adm. Code 730.103. The terms land application unit, surface impoundment, and waste pile are defined in 40 C.F.R. § 257.2, incorporated by reference in Section 810.104. The terms construction and demolition landfill and industrial solid waste are defined in 40 CFR 258.2, incorporated by reference in Section 810.104

~~“Municipal solid waste landfill unit” or “MSWLF unit” means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of non-containerized accumulations of solid, non-flowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, small quantity generator and industrial solid waste. Such a landfill may be publicly or privately owned or operated. a MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or~~

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~~a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives household waste. [415 ILCS 5/3.285] But, a landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.~~

BOARD NOTE: ~~The final sentence of corresponding 40 C.F.R. 258.2 provides as follows: "A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF Unit."~~ A "construction and demolition (C&D) landfill" is a regulatory category type of landfill that does not exist in Illinois. It is distinct from a clean construction and demolition debris (CCDD) fill operation under 35 Ill. Adm. Code 1100. ~~, so the Board omitted the reference to "construction and demolition landfill."~~ A landfill in Illinois that receives residential lead-based paint waste and no other type of household waste would be permitted as a chemical waste landfill or a putrescible waste landfill under Subpart C of 35 Ill. Adm. Code 811, as appropriate.

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 USC 1251 et seq.), Section 12(f) of the Act ~~[415 ILCS 5/12(f)]~~, Subpart A of 35 Ill. Adm. Code 309, and 35 Ill. Adm. Code 310.

"NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that had ~~has~~ not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that had ~~has~~ no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

It is a landfill with a unit whose maximum design capacity or lateral extent was ~~is~~ increased after September 18, 1990.

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BOARD NOTE: A new unit located in an existing facility will be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

“New MSWLF unit” means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993 for the first time. [415 ILCS 5/3.285]

“One hundred-year flood plain” means any land area that is subject to a one percent or greater chance of flooding in a given year from any source.

“One hundred-year, 24-hour precipitation event” means a precipitation event of 24-hour duration with a probable recurrence interval of once in 100 years.

“Operator” means the person responsible for the operation and maintenance of a solid waste disposal facility.

“Owner” means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The “owner” is the “operator” if there is no other person who is operating and maintaining a solid waste disposal facility.

“Perched watertable” means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

“Permit area” means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

“Person” is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

“Potentially usable waste” means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

“Poz-O-Tec materials” means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD)

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sludges and ash produced by coal combustion power generation facilities as raw materials.

“Poz-O-Tec monofill” means a landfill in which solely Poz-O-Tec materials are placed for disposal.

“Professional engineer” means a person who has registered and obtained a seal pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

“Professional land surveyor” means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

“Putrescible waste” means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes that do not meet the definition of inert or chemical wastes will be considered putrescible wastes.

“Publicly owned treatment works” or “POTW” means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“Recharge zone” means an area through which water can enter an aquifer.

“Research, development, and demonstration permit” or “RD&D permit” means a permit issued pursuant to 35 Ill. Adm. Code 813.112.

“Residential lead-based paint waste” means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

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“Resource Conservation and Recovery Act” or “RCRA” means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 codified as 42 USC. §§ 6901 et seq.) as amended. [415 ILCS 5/3.425]

“Responsible charge,” when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

“Runoff” means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

“Salvaging” means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

“Scavenging” means the removal of materials from a solid waste management facility or unit that is not salvaging.

“~~Seismic slope safety factor~~ Slope Safety Factor” means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

“Settlement” means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil, and adjacent operations involving excavation.

“Shredding” means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a three-inch sieve.

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“Significant ~~modification~~ Modification” means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act [~~415 ILCS 5/39~~] and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate, or final cover;

A decrease in performance, efficiency, or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

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A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

“Slag” means the fused agglomerate that separates in the iron and steel production and floats on the surface of the molten metal.

“Sole source aquifer” means those aquifers designated pursuant to ~~section~~ Section 1424(e) of the Safe Drinking Water Act of 1974 (42 USC 300h-3).

“Solid ~~waste~~ Waste” means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

“*Special waste*” means any industrial process waste, pollution control waste, or hazardous waste, except as determined pursuant to ~~Section 22.9 of the Act~~ [415 ILCS 5/22.9] and 35 Ill. Adm. Code 808. [415 ILCS 5/3.475]

“Static ~~safety factor~~ Safety Factor” means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

“Steel slag” means slag.

“Surface impoundment” means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

“Twenty-five-year, 24-hour precipitation event” means a precipitation event of 24-hour duration with a probable recurrence interval of once in 25 years.

“Uppermost aquifer” means the first geologic formation above or below the bottom elevation of a constructed liner or wastes, where no liner is present, that is

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an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which non-containerized masses of solid, non-flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, ~~this such~~ demonstration must include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

"Waste stabilization" means any chemical, physical, or thermal treatment of waste, either alone or in combination with biological processes, that results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed of.

"Zone of attenuation" means the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 810.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:
 - 1) Code of Federal Regulations:

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40 CFR 3.2 (2017) ~~(2016)~~ (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

40 CFR 3.3 (2017) ~~(2016)~~ (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10 (2017) ~~(2016)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000 (2017) ~~(2016)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 (2017) ~~(2016)~~ (Monitoring Requirements for Unregulated Contaminants), referenced in 35 Ill. Adm. Code 811.319 and 817.415.

40 CFR 257.2 (2017) (Definitions), referenced in Section 810.103.

40 CFR 258.2 (2017) (Definitions), referenced in Section 810.103.

40 CFR 258.10(a), (b), and (c) (2017) (Airport Safety), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.11(a) (2017) (Floodplains), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.12(a) (2017) (Wetlands), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.13 (2017) (Fault Areas), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.14 (2017) (Seismic Impact Zones), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.15 (2017) (Unstable Areas), referenced in Appendix A to 35 Ill. Adm. Code 814.

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40 CFR 258.16(a) (2017) (Closure of Existing Municipal Solid Waste Landfill Units), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.20 (2017) (Procedures for Excluding the Receipt of Hazardous Waste), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.23 (2017) (Explosive Gases Control), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.26 (2017) (Run-on/Run-off Control Systems), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.27 (2017) (Surface Water Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.28 (2017) (Liquids Restrictions), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.29(a) and (c) (2017) (Recordkeeping Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.60(c)(2), (c)(3), (d), (f), (g), and (i) (2017) (Closure Criteria), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.61(a), (c)(3), and (d) (2017) (Post-Closure Care Requirements), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.70(a) (2017) ((Financial Assurance) Applicability and Effective Date), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.71(a)(2) (2017) (Financial Assurance for Closure), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.72(a)(1) and (a)(2) (2017) (Financial Assurance for Post-Closure Care), referenced in Appendix A to 35 Ill. Adm. Code 814.

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40 CFR 258.73 (2017) (Financial Assurance for Corrective Action), referenced in Appendix A to 35 Ill. Adm. Code 814.

40 CFR 258.74 (2017) (Allowable Mechanisms (for Financial Assurance)), referenced in Appendix A to 35 Ill. Adm. Code 814.

Appendix I of ~~to~~ 40 CFR 258 (2017) (Constituents for Detection Monitoring) ~~(2013)~~, referenced in 35 Ill. Adm. Code 811.319.

Appendix II of ~~to~~ 40 CFR 258 (2017) (List of Hazardous Inorganic and Organic Constituents) ~~(2013)~~, referenced in 35 Ill. Adm. Code 811.319.

- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036:

Financial Accounting Standard Board (FASB) Accounting Standards—Current Text, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

American Institute of Certified Public Accountants (AICPA) Professional Standards—Statements on Auditing Standards, June 1, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

- 3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia, PA 19103, 215-299-5585:

Method D2234-76, “Test Method for Collection of Gross Samples of Coal,”, approved 1976, referenced in 35 Ill. Adm. Code 817.103.

Method D3987-85, “Standard Test Method for Shake Extraction of Solid Waste with Water,”, approved 1985, referenced in 35 Ill. Adm. Code 814.601, 814.701, 814.901, 814.902, and 817.103.

- 4) GASB. Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116:

Statement 18, Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs, August 1993, referenced in 35 Ill. Adm. Code 811.716.

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- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattsville, MD 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986), referenced in 35 Ill. Adm. Code 816.530.

- 6) U.S. Government Printing Office, Washington, DC 20402, Ph: 202-783-3238:

Method 9095B (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (Third Edition, Update IIIB, November 2004) (document number EPA-SW-846-03-03B or EPA-530-R-04-037), referenced in 35 Ill. Adm. Code 811.107.

- b) These incorporations include ~~This incorporation includes~~ no later amendments or editions.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 810.105 Electronic Reporting

- a) Scope and Applicability:
- 1) The USEPA, the Board, or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.
 - 2) Electronic reporting under this Section can begin only after USEPA has first done as follows:

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- A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or
 - B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1)-of this Section:
- A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring approval for the filing of any types of documents as electronic documents, as described in subsection (a)(2)(B)-of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a)-of this Section is derived from 40 CFR 3.1 (2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in Section 35 Ill. Adm. Code 810.104.
- c) Procedures for Submission of Electronic Documents ~~electronic documents~~ to USEPA. Except as provided in subsection (a)(3) ~~of this Section~~, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 (2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- d) Procedures for Submission of Electronic Documents ~~electronic documents~~ to the Board or the Agency:
- 1) The Board or the Agency may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of 40 CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act ~~[5 ILCS 100/5]~~.
 - 2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of USEPA's ~~such~~ approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act ~~[415 ILCS 5]~~ to accept documents filed electronically.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 (2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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- e) Effects of Submission ~~submission~~ of an Electronic Document ~~electronic document~~.
- 1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
 - 2) ~~If Where~~ a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
 - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
 - 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) (2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- f) Public Document Subject ~~document~~ ~~subject~~ to State Laws ~~laws~~. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
- 1) The Administrative Procedure Act [5 ILCS 100];
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act ~~[415 ILCS 5];~~

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- 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
- 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) (2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

BOARD NOTE: Derived from 40 CFR 3, ~~as added~~, and 40 CFR 258.29(d) (2017) ~~(2005)~~, as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Standards for New Solid Waste Landfills

2) Code citation: 35 Ill. Adm. Code 811

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
811.103	Amendment
811.106	Amendment
811.107	Amendment
811.110	Amendment
811.302	Amendment
811.309	Amendment
811.310	Amendment
811.314	Amendment
811.319	Amendment
811.320	Amendment
811.321	Amendment
811.323	Amendment
811.326	Amendment
811.404	Amendment
811.704	Amendment
811.715	Amendment
811.716	Amendment
811.719	Amendment
811 Appendix A, Illustration A	Amendment
811 Appendix A, Illustration B	Amendment
811 Appendix A, Illustration E	Amendment
811.Appendix B	Amendment
811.Appendix C	Amendment

4) Statutory authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27.

5) Effective date of rule: NOV 19 2018

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this rulemaking contain incorporations by reference? No.

8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

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- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12807; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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).
- 11) Differences between the proposal and the final version: A table in a document entitled “Identical-in-Substance Rulemaking Addendum (Final)” that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.
- The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board’s review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based. The Board erred in proposing amendment of the heading of Section 811.Appendix A, Illustration C. The Board has removed Illustration C from the final amendments.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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 JCAR.
- Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table in itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.
- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.

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- 15) Summary and purpose of rulemaking: The amendments to Part 811 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 733, 738, 739, 810, and 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.40(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules. Section 22.40(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois MSWLF rules are in 35 Ill. Adm. Code 810 through 814. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois landfill rules and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 811 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] 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

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is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
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Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620.
You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811
STANDARDS FOR NEW SOLID WASTE LANDFILLS

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- 811.APPENDIX C List of Leachate Monitoring Parameters

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1435, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16172, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10842, effective June 22, 2011; amended in R10-09(A) at 35 Ill. Reg. 18882, effective October 24, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7259, effective March 13, 2014; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section 811.103 Surface Water Drainage

- a) **Runoff from ~~From~~ Disturbed Areas.**
- 1) Runoff from disturbed areas resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event that is discharged to waters of the State must meet the requirements of 35 Ill. Adm. Code 304.

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- 2) All discharges of runoff from disturbed areas to waters of the State must be permitted by the Agency in accordance with 35 Ill. Adm. Code 309.
 - 3) All treatment facilities must be equipped with bypass outlets designed to pass the peak flow of runoff from the 100-year, 24-hour precipitation event without damage to the treatment facilities or surrounding structures.
 - 4) All surface water control structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover meeting the requirements of Section 811.205 or 811.322.
 - 5) All discharge structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., bottom and sides, of the receiving stream channel.
- b) Diversion of Runoff from ~~From~~ Undisturbed Areas:
- 1) Runoff from undisturbed areas must be diverted around disturbed areas, unless the operator shows that it is impractical based on site-specific conditions or unless the Agency has issued a research, development, and demonstration (RD&D) permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.
 - 2) Diversion facilities must be designed to prevent runoff from the 25-year, 24-hour precipitation event from entering disturbed areas, unless the Agency has issued an RD&D permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.
 - 3) Runoff from undisturbed areas that becomes commingled with runoff from disturbed areas must be handled as runoff from disturbed areas and treated in accordance with subsection (a) ~~of this Section~~.
 - 4) All diversion structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., the bottom and sides, of the diversion channel and downstream channels.
 - 5) All diversion structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover that meets the requirements of Section 811.205 or 811.322.

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BOARD NOTE: Those segments of subsections (b)(1) and (b)(2) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(a)(1) (2017) ~~(2004)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.106 Daily Cover

- a) A uniform layer of at least 0.15 meter (six inches) of clean soil material must be placed on all exposed waste by the end of each day of operation.
- b) Alternative materials or procedures, including the removal of daily cover prior to additional waste placement, may be used, provided that the alternative materials or procedures achieve equivalent or superior performance to the requirements of subsection (a) ~~of this Section~~ in the following areas:
 - 1) Prevention of blowing debris;
 - 2) Minimization of access to the waste by vectors;
 - 3) Minimization of the threat of fires at the open face; and
 - 4) Minimization of odors.
- c) Any alternative frequencies for cover requirements to those set forth in subsections (a) and (b) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection (c) must fulfill the following requirements:
 - 1) They must consider the unique characteristics of small communities;
 - 2) They must take into account climatic and hydrogeologic conditions; and
 - 3) They must be protective of human health and the environment.

BOARD NOTE: This subsection (c) is derived from 40 CFR 258.21(d) (2017) ~~(2004)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 811.107 Operating Standards

- a) Phasing of Operations:
 - 1) Waste must be placed in a manner and at such a rate that mass stability is provided during all phases of operation. Mass stability means that the mass of waste deposited will not undergo settling or slope failure that interrupts operations at the facility or causes damage to any of the various landfill operations or structures, such as the liner, leachate or drainage collection system, gas collection system, or monitoring system.
 - 2) The phasing of operations at the facility must be designed in such a way as to allow the sequential construction, filling, and closure of discrete units or parts of units.
 - 3) The operator must design and sequence the waste placement operation in each discrete unit or parts of units, in conjunction with the overall operations of the facility, so as to shorten the operational phase and allow wastes to be built up to the planned final grade.
- b) Size and Slope of Working Face:
 - 1) The working face of the unit must be no larger than is necessary, based on the terrain and equipment used in waste placement, to conduct operations in a safe and efficient manner.
 - 2) The slopes of the working face area must be no steeper than two to one (horizontal to vertical) unless the waste is stable at steeper slopes.
- c) Equipment. Equipment must be maintained and available for use at the facility during all hours of operation, so as to achieve and maintain compliance with the requirements of this Part.
- d) Utilities. All utilities, including but not limited to heat, lights, power and communications equipment, necessary for safe operation in compliance with the requirements of this Part must be available at the facility at all times.
- e) Maintenance. The operator must maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.

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- f) Open Burning. Open burning is prohibited, except in accordance with 35 Ill. Adm. Code 200 through 245.
- g) Dust Control. The operator must implement methods for controlling dust, so as to prevent wind dispersal of particulate matter.
- h) Noise Control. The facility must be designed, constructed, and maintained to minimize the level of equipment noise audible outside the facility. The facility must not cause or contribute to a violation of 35 Ill. Adm. Code 900 through 905 or of Section 24 of the Act [415 ILCS 5/24].
- i) Vector Control. The operator must implement measures to control the population of disease and nuisance vectors.
- j) Fire Protection. The operator must institute fire protection measures including, but not limited to, maintaining a supply of water onsite and radio or telephone access to the nearest fire department.
- k) Litter Control:
 - 1) The operator must patrol the facility daily to check for litter accumulation. All litter must be collected and placed in the fill or in a secure, covered container for later disposal.
 - 2) The facility must not accept solid waste from vehicles that do not utilize devices such as covers or tarpaulins to control litter, unless the nature of the solid waste load is such that it cannot cause any litter during its transportation to the facility.
- l) Mud Tracking. The facility must implement methods, such as use of wheel washing units, to prevent tracking of mud by hauling vehicles onto public roadways.
- m) Liquids Restrictions for MSWLF Units:
 - 1) Bulk or noncontainerized liquid waste may not be placed in MSWLF units, unless one of the following conditions is true:
 - A) The waste is household waste other than septic waste;

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- B) The waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, is designed with a composite liner and leachate collection system that complies with the requirements of Sections 811.306 through 811.309; or
 - C) The Agency has issued an RD&D permit pursuant to 35 Ill. Adm. Code 813.112(a)(2) that allows the placement of noncontainerized liquids in the landfill, and that permit is in effect.
- 2) Containers holding liquid waste may not be placed in an MSWLF unit, unless one of the following conditions is true:
- A) The container is a small container similar in size to that normally found in household waste;
 - B) The container is designed to hold liquids for use other than storage; or
 - C) The waste is household waste.
- 3) For purposes of this Section, the following definitions apply:
- A) “Liquid waste” means any waste material that is determined to contain “free liquids;”, as defined by Method 9095B (Paint Filter Liquids Test) (Revision 2, November 2004), as described in “Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods;”, incorporated by reference in 35 Ill. Adm. Code 810.104.
 - B) “Gas condensate” means the liquid generated as a result of gas recovery processes at the MSWLF unit.

BOARD NOTE: Subsections (m)(1) through (m)(3) of this Section are derived from 40 CFR 258.28 (2017)-(2013). Subsection (m)(1)(C) of this Section relating to RD&D permits is derived from 40 CFR 258.4(a)(2) (2017)-(2013).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 811.110 Closure and Written Closure Plan

- a) The final slopes and contours ~~must shall~~ be designed to complement and blend with the surrounding topography of the proposed final land use of the area.
- b) All drainage ways and swales ~~must shall~~ be designed to safely pass the runoff from the 100-year, 24-hour precipitation event without scouring or erosion.
- c) The final configuration of the facility ~~must shall~~ be designed in a manner that minimizes the need for further maintenance.
- d) Written Closure Plan ~~closure plan~~
 - 1) The operator ~~must shall~~ maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that fulfills the provisions of the Act, of this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan ~~must shall~~ fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.
 - 2) A modification of the written closure plan ~~must shall~~ constitute a significant modification of the permit for the purposes of 35 Ill. Adm. Code 813.Subpart B.
 - 3) In addition to the informational requirements of subsection 811.100(d)(1), an owner or operator of a MSWLF unit ~~must shall~~ include the following information in the written closure plan:
 - A) An estimate of the largest area of the MSWLF unit ever requiring a final cover, as required by Section 811.314, at any time during the active life; and
 - B) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility.

BOARD NOTE: Subsection 811.110(d)(3) is derived from 40 CFR 258.60(c)(1) and (c)(2) ~~(2017)-(1992)~~.

- e) Beginning Closure

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- 1) The owner or operator of a MSWLF unit must ~~shall~~ begin closure activities for each MSWLF unit no later than the date determined as follows:
 - A1) 30 days after the date on which the MSWLF unit receives the final receipt of wastes; or
 - B2) If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes.
- 23) The Agency must ~~shall~~ grant extensions beyond this one year deadline for beginning closure if the owner or operator demonstrates that:
 - A) The MSWLF unit has the capacity to receive additional wastes; and
 - B) The owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE: Subsection (e) is derived from 40 CFR 258.60(f) (2017) ~~(1992)~~.

- f) The owner or operator of a MSWLF unit must ~~shall~~ complete closure activities for each unit in accordance with closure plan no later than the dates determined as follows:
 - 1) Within 180 days of beginning closure, as specified in subsection (e) ~~of this Section~~.
 - 2) The Agency must ~~shall~~ grant extension of the closure period if the owner or operator demonstrates that:
 - A) The closure will, of necessity, take longer than 180 days; and
 - B) The owner or operator has taken and will continue to take all necessary steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

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BOARD NOTE: Subsection ~~(f)~~ ~~(e)~~ is derived from 40 CFR 258.60(g) ~~(2017)~~ (1992).

- g) Deed Notation ~~notation~~.
- 1) Following closure of all MSWLF units at a site, the owner or operator must ~~shall~~ record a notation on the deed to the landfill facility property or some other instrument that is normally examined during title search. The owner or operator must ~~shall~~ place a copy of the instrument in the operating record, and must ~~shall~~ notify the Agency that the notation has been recorded and a copy has been placed in the operating record.
 - 2) The notation on the deed or other instrument must be made in such a way that in perpetuity notify any potential purchaser of the property that:
 - A) The land has been used as a landfill facility; and
 - B) Its use is restricted pursuant to Section 811.111(d).

BOARD NOTE: Subsection (g) is derived from 40 CFR 258.60(i) ~~(2017)~~ (1992).

- h) The Agency must ~~shall~~ allow the owner or operator of a MSWLF unit to remove the notation from the deed only if the owner or operator demonstrates to the Agency that all wastes are removed from the facility.

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.60(j) ~~(2017)~~ (1992).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section 811.302 Facility Location

- a) No part of a unit may be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit may be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to ~~section~~ Section 1424(e) of the Safe Drinking Water Act (42 USC 300f et seq.), unless there is a

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stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:

- 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
 - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than 1×10^{-7} centimeters per second, as determined by in situ borehole or equivalent tests;
 - 3) There is no indication of continuous sand or silt seams, faults, fractures, or cracks within the stratum that may provide paths for migration; and
 - 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters (50 feet) in 100 years.
- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway must have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (eight feet) in height.
 - d) No part of a unit may be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.
 - e) The facility may not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (FAA) provides the operator with written permission, including technical justification, for a closer distance.
 - f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft must notify the affected airport and the FAA within seven days after filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

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BOARD NOTE: ~~Subsections (e) and Subsection (f) are of this Section~~ is derived from 40 CFR 258.10 (2017)-(2003), as amended at 68 Fed. Reg. 59333 (October 15, 2003). USEPA added the following information in a note appended to 40 CFR 258.10: A prohibition on locating a new MSWLF near certain airports was enacted in ~~section~~ Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act) (49 USC 44718(d)). Section 503 prohibits the “construction or establishment” of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports unless the FAA allows an exemption. The FAA administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.309 Leachate Treatment and Disposal Systems

- a) Leachate ~~must shall~~ be allowed to flow freely from the drainage and collection system. The operator is responsible for the operation of a leachate management system designed to handle all leachate as it drains from the collection system. The leachate management system ~~must shall~~ consist of any combination of storage, treatment, pretreatment, and disposal options designed and constructed in compliance with the requirements of this Section.
- b) The leachate management system ~~must shall~~ consist of any combination of multiple treatment and storage structures, to allow the management and disposal of leachate during routine maintenance and repairs.
- c) Standards for Onsite Treatment and Pretreatment
 - 1) All onsite treatment or pretreatment systems ~~must shall~~ be considered part of the facility.
 - 2) The onsite treatment or pretreatment system ~~must shall~~ be designed in accordance with the expected characteristics of the leachate. The design may include modifications to the system necessary to accommodate changing leachate characteristics.
 - 3) The onsite treatment or pretreatment system ~~must shall~~ be designed to function for the entire design period.

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- 4) All of the facility's unit operations, tanks, ponds, lagoons and basins must ~~shall~~ be designed and constructed with liners or containment structures to control seepage to groundwater.
 - 5) All treated effluent discharged to waters of the State must ~~shall~~ meet the requirements of 35 Ill. Adm. Code 309.
 - 6) The treatment system must ~~shall~~ be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.
- d) Standards for Leachate Storage Systems
- 1) Except as otherwise provided in subsection (d)(6) ~~of this Section~~, the leachate storage facility must be able to store a minimum of at least five days' worth of accumulated leachate at the maximum generation rate used in designing the leachate drainage system in accordance with Section 811.307. The minimum storage capacity may be built up over time and in stages, so long as the capacity for five consecutive days of accumulated leachate is available at any time during the design period of the facility.
 - 2) All leachate storage tanks must ~~shall~~ be equipped with secondary containment systems equivalent to the protection provided by a clay liner 0.61 meter (2 feet thick) having a permeability no greater than 10^{-7} centimeters per second.
 - 3) Leachate storage systems must ~~shall~~ be fabricated from material compatible with the leachate expected to be generated and resistant to temperature extremes.
 - 4) The leachate storage system must ~~shall~~ not cause or contribute to a malodor.
 - 5) The leachate drainage and collection system must ~~shall~~ not be used for the purpose of storing leachate.
 - 6) A facility may have less than five days' worth of storage capacity for accumulated leachate as required by subsection (d)(1) ~~of this Section~~, if the owner or operator of the facility demonstrates that multiple treatment, storage and disposal options in the facility's approved leachate management system developed in accordance with subsection (b) ~~of this Section~~ will achieve equivalent performance. Such options must ~~shall~~

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consist of not less than one day's worth of storage capacity for accumulated leachate plus at least two alternative means of managing accumulated leachate through treatment or disposal, or both treatment and disposal, each of which means is capable of treating or disposing of all leachate generated at the maximum generation rate on a daily basis.

- e) Standards for Discharge to an Offsite Treatment Works
- 1) Leachate may be discharged to an offsite treatment works that meets the following requirements:
 - A) All discharges of effluent from the treatment works must shall meet the requirements of 35 Ill. Adm. Code 309.
 - B) The treatment systems must shall be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.
 - C) No more than 50 percent of the average daily influent flow can be attributable to leachate from the solid waste disposal facility. Otherwise, the treatment works must shall be considered a part of the solid waste disposal facility.
 - 2) The operator is responsible for securing permission from the offsite treatment works for authority to discharge to the treatment works.
 - 3) All discharges to a treatment works must shall meet the requirements of 35 Ill. Adm. Code 310.
 - 4) Pumps, meters, valves and monitoring stations that control and monitor the flow of leachate from the unit and which are under the control of the operator must shall be considered part of the facility and must shall be accessible to the operator at all times.
 - 5) Leachate must shall be allowed to flow into the sewage system at all times; however, if access to the treatment works is restricted or anticipated to be restricted for longer than five days, then an alternative leachate management system must shall be constructed in accordance with subsection (c).
 - 6) Where leachate is not directly discharged into a sewage system, the operator must shall provide storage capacity sufficient to transfer all

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leachate to an offsite treatment works. The storage system must ~~shall~~ meet the requirements of subsection (d).

- f) Standards for Leachate Recycling Systems
- 1) Leachate recycling systems may be utilized only at permitted waste disposal units that meet the following requirements:
 - A) The unit must have a liner designed, constructed and maintained to meet the minimum standards of Section 811.306.
 - B) The unit must have a leachate collection system in place and operating in accordance with Section 811.307.
 - C) A gas management system, equipped with a mechanical device such as a compressor to withdraw gas, must be implemented to control odors and prevent migration of methane in accordance with Section 811.311.
 - D) The topography must be such that any accidental leachate runoff can be controlled by ditches, berms or other equivalent control means.
 - 2) Leachate must ~~shall~~ not be recycled during precipitation events or in volumes large enough to cause runoff or surface seeps.
 - 3) The amount of leachate added to the unit must ~~shall~~ not exceed the ability of the waste and cover soils to transmit leachate flow downward. All other leachate must ~~shall~~ be considered excess leachate, and a leachate management system capable of disposing of all excess leachate must be available.
 - 4) The leachate storage and distribution system must ~~shall~~ be designed to avoid exposure of leachate to air unless aeration or functionally equivalent devices are utilized.
 - 5) The distribution system must ~~shall~~ be designed to allow leachate to be evenly distributed beneath the surface over the recycle area.
 - 6) Daily and intermediate cover must ~~shall~~ be permeable to the extent necessary to prevent the accumulation of water and formation of perched

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watertables and gas buildup; alternatively, cover must ~~shall~~ be removed prior to additional waste placement.

- 7) Daily and intermediate cover must ~~shall~~ slope away from the perimeter of the site to minimize surface discharges.

g) Leachate Monitoring

- 1) Representative samples of leachate must ~~shall~~ be collected from each established leachate monitoring location in accordance with subsection (g)(5) and tested for the parameters referenced in subsections (g)(2)(G) and (g)(3)(D). The Agency may, by permit condition, require additional, or allow less, leachate sampling and testing as necessary to ensure compliance with this Section and Sections 811.312, 811.317, and 811.319.
- 2) Discharges of leachate from units that dispose of putrescible wastes must ~~shall~~ be tested for the following constituents prior to treatment or pretreatment:
- A) Five day biochemical oxygen demand (BOD₅);
 - B) Chemical oxygen demand;
 - C) Total Suspended Solids;
 - D) Total Iron;
 - E) pH;
 - F) Any other constituents listed in the operator's National Pollution Discharge Elimination System (NPDES) discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and
 - G) All the monitoring parameters listed in Section 811. Appendix C, unless an alternate monitoring list has been approved by the Agency.
- 3) Discharges of leachate from units which dispose only chemical wastes must ~~shall~~ be monitored for constituents determined by the characteristics

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of the chemical waste to be disposed of in the unit. They ~~must~~ shall include, as a minimum:

- A) pH;
 - B) Total Dissolved Solids;
 - C) Any other constituents listed in the operator's NPDES discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and
 - D) All the monitoring parameters listed in Section 811. Appendix C, unless an alternate monitoring list has been approved by the Agency.
- 4) A network of leachate monitoring locations ~~must~~ shall be established, capable of characterizing the leachate produced by the unit. Unless an alternate network has been approved by the Agency, the network of leachate monitoring locations ~~must~~ shall include:
- A) At least four leachate monitoring locations; and
 - B) At least one leachate monitoring location for every 25 acres within the unit's waste boundaries.
- 5) Leachate monitoring ~~must~~ shall be performed at least once every six months and each established leachate monitoring location ~~must~~ shall be monitored at least once every two years.
- h) Time of Operation of the Leachate Management System
- 1) The operator ~~must~~ shall collect and dispose of leachate for a minimum of five years after closure and thereafter until treatment is no longer necessary.
 - 2) Treatment is no longer necessary if the leachate constituents do not exceed the wastewater effluent standards in 35 Ill. Adm. Code 304.124, 304.125, and 304.126 and do not contain a BOD₅ concentration greater than 30 mg/L for six consecutive months.

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- 3) Leachate collection at a MSWLF unit must ~~shall~~ be continued for a minimum period of 30 years after closure, except as otherwise provided by subsections (h)(4) and (h)(5).
- 4) The Agency may reduce the leachate collection period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- 5) The owner or operator of a MSWLF unit must ~~shall~~ petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:
 - Ai) Inspection and maintenance (Section 811.111);
 - Bii) Leachate collection (Section 811.309);
 - Ciii) Gas monitoring (Section 811.310); and
 - Div) Groundwater monitoring (Section 811.319).

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.61 (2017) ~~(1992)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.310 Landfill Gas Monitoring

- a) This Section applies to all units that dispose putrescible wastes.
- b) Location and Design of Monitoring Wells:
 - 1) Gas monitoring devices must be placed at intervals and elevations within the waste to provide a representative sampling of the composition and buildup of gases within the unit.
 - 2) Gas monitoring devices must be placed around the unit at locations and elevations capable of detecting migrating gas from the ground surface to the lowest elevation of the liner system or the top elevation of the groundwater, whichever is higher.

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- 3) A predictive gas flow model may be utilized to determine the optimum placement of monitoring points required for making observations and tracing the movement of gas.
 - 4) Gas monitoring devices must be constructed from materials that will not react with or be corroded by the landfill gas.
 - 5) Gas monitoring devices must be designed and constructed to measure pressure and allow collection of a representative sample of gas.
 - 6) Gas monitoring devices must be constructed and maintained to minimize gas leakage.
 - 7) The gas monitoring system must not interfere with the operation of the liner, leachate collection system, or delay the construction of the final cover system.
 - 8) At least three ambient air monitoring locations must be chosen and samples must be taken no higher than 0.025 meter (1 inch) above the ground and 30.49m (100 feet) downwind from the edge of the unit or at the property boundary, whichever is closer to the unit.
- c) Monitoring Frequency-
- 1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.
 - 2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.
 - 3) The sampling frequency may be reduced to yearly sampling intervals upon the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.
 - 4) Monitoring must be continued for a minimum period of: 30 ~~thirty~~ years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) ~~of this Section~~; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or 15 ~~fifteen~~ years after closure at all other landfills regulated under this Part. Monitoring, beyond the

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minimum period, may be discontinued if the following conditions have been met for at least one year:

- A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and
 - B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) of this Section.
- 5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- 6) The owner or operator of an MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:
- A) Inspection and maintenance (Section 811.111);
 - B) Leachate collection (Section 811.309);
 - C) Gas monitoring (Section 811.310); and
 - D) Groundwater monitoring (Section 811.319).

BOARD NOTE: Those segments of this subsection (c) that relate to MSWLF units are derived from 40 CFR 258.61 (2017)~~(2002)~~.

- d) Parameters to be Monitored-
- 1) All below ground monitoring devices must be monitored for the following parameters at each sampling interval:
 - A) Methane;
 - B) Pressure;
 - C) Oxygen; and

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- D) Carbon dioxide.
- 2) Ambient air monitors must be sampled for methane only when the average wind velocity is less than eight kilometers (five miles) per hour at a minimum of three downwind locations 30.49 meters (100 feet) from the edge of the unit or the property boundary, whichever is closer to the unit.
- 3) All buildings within a facility must be monitored for methane by utilizing continuous detection devices located at likely points where methane might enter the building.
- e) Any alternative frequencies for the monitoring requirement of subsection (c) of ~~this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act [~~415 ILCS 5/28.1~~] and Subpart D of 35 Ill. Adm. Code 104. Any alternative monitoring frequencies established under this subsection (e) must fulfill the following requirements:
- 1) They must consider the unique characteristics of small communities;
- 2) They must take into account climatic and hydrogeologic conditions; and
- 3) They must be protective of human health and the environment.

BOARD NOTE: This subsection (e) is derived from 40 CFR 258.23(e) (2017) (~~2004~~).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.314 Final Cover System

- a) The unit must be covered by a final cover consisting of a low permeability layer overlain by a final protective layer constructed in accordance with the requirements of this Section, unless the Agency has issued an RD&D permit that allows the use of an innovative final cover technology pursuant to an adjusted standard issued under 35 Ill. Adm. Code 813.112(b), and that permit is in effect.

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- b) Standards for the Low Permeability Layer-
- 1) Not later than 60 days after placement of the final lift of solid waste, a low permeability layer must be constructed.
 - 2) The low permeability layer must cover the entire unit and connect with the liner system.
 - 3) The low permeability layer must consist of any one of the following:
 - A) A compacted earth layer constructed in accordance with the following standards:
 - i) The minimum allowable thickness must be 0.91 meter (3 feet); and
 - ii) The layer must be compacted to achieve a permeability of 1×10^{-7} centimeters per second and minimize void spaces.
 - iii) Alternative specifications may be utilized provided that the performance of the low permeability layer is equal to or superior to the performance of a layer meeting the requirements of subsections (b)(3)(A)(i) and (b)(3)(A)(ii) of this Section.
 - B) A geomembrane constructed in accordance with the following standards:
 - i) The geomembrane must provide performance equal or superior to the compacted earth layer described in subsection (b)(3)(A) of this Section.
 - ii) The geomembrane must have strength to withstand the normal stresses imposed by the waste stabilization process.
 - iii) The geomembrane must be placed over a prepared base free from sharp objects and other materials that may cause damage.

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- C) Any other low permeability layer construction techniques or materials, provided that they provide equivalent or superior performance to the requirements of this subsection (b).
 - 4) For an MSWLF unit, subsection (b)(3) ~~of this Section~~ notwithstanding, if the bottom liner system permeability is lower than 1×10^{-7} cm/sec, the permeability of the low permeability layer of the final cover system must be less than or equal to the permeability of the bottom liner system.
- c) Standards for the Final Protective Layer-
- 1) The final protective layer must cover the entire low permeability layer.
 - 2) The thickness of the final protective layer must be sufficient to protect the low permeability layer from freezing and minimize root penetration of the low permeability layer, but must not be less than 0.91 meter (3 feet).
 - 3) The final protective layer must consist of soil material capable of supporting vegetation.
 - 4) The final protective layer must be placed as soon as possible after placement of the low permeability layer to prevent desiccation, cracking, freezing, or other damage to the low permeability layer.
- d) Any alternative requirements for the infiltration barrier in subsection (b) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection must fulfill the following requirements:
- 1) They must consider the unique characteristics of small communities;
 - 2) They must take into account climatic and hydrogeologic conditions; and
 - 3) They must be protective of human health and the environment.

BOARD NOTE: Subsection (b)(4) ~~of this Section~~ is derived from 40 CFR 258.60(a) (2017) (2004). Subsection (d) ~~of this Section~~ is derived from 40 CFR 258.60(b)(3) (2017) (2004).

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Those segments of subsection (a) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(b) ~~(2017)-(2004)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.319 Groundwater Monitoring Programs

- a) Detection Monitoring Program. Any use of the term maximum allowable predicted concentration in this Section is a reference to Section 811.318(c). The operator must implement a detection monitoring program in accordance with the following requirements:
- 1) Monitoring Schedule and Frequency:
 - A) The monitoring period must begin as soon as waste is placed into the unit of a new landfill or within one year of September 18, 1990 ~~the effective date of this Part~~ for an existing landfill. Monitoring must continue for a minimum period of 15 years after closure, or in the case of MSWLF units, a minimum period of 30 years after closure, except as otherwise provided by subsection (a)(1)(C) ~~of this Section~~. The operator must sample all monitoring points for all potential sources of contamination on a quarterly basis except as specified in subsection (a)(3), for a period of five years from the date of issuance of the initial permit for significant modification under 35 Ill. Adm. Code 814.104 or a permit for a new unit pursuant to 35 Ill. Adm. Code 813.104. After the initial five-year period, the sampling frequency for each monitoring point must be reduced to a semi-annual basis, provided the operator has submitted the certification described in 35 Ill. Adm. Code 813.304(b). Alternatively, after the initial five-year period, the Agency must allow sampling on a semi-annual basis where the operator demonstrates that monitoring effectiveness has not been compromised, that sufficient quarterly data has been collected to characterize groundwater, and that leachate from the monitored unit does not constitute a threat to groundwater. For the purposes of this Section, the source must be considered a threat to groundwater if the results of the monitoring indicate either that the concentrations of any of the constituents monitored within the zone of attenuation is above the maximum allowable predicted concentration for that constituent or, for existing landfills, subject

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to Subpart D of 35 Ill. Adm. Code 814, that the concentration of any constituent has exceeded the applicable standard at the compliance boundary as defined in 35 Ill. Adm. Code 814.402(b)(3).

- B) Beginning 15 ~~fifteen~~ years after closure of the unit, or five years after all other potential sources of discharge no longer constitute a threat to groundwater, as defined in subsection (a)(1)(A) ~~of this Section~~, the monitoring frequency may change on a well by well basis to an annual schedule if either of the following conditions exist. However, monitoring must return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in accordance with Section 811.320(e), in the concentration of any constituent with respect to the previous sample.
- i) All constituents monitored within the zone of attenuation have returned to a concentration less than or equal to ten percent of the maximum allowable predicted concentration; or
 - ii) All constituents monitored within the zone of attenuation are less than or equal to their maximum allowable predicted concentration for eight consecutive quarters.
- C) Monitoring must be continued for a minimum period of: 30 years after closure at MSWLF units, except as otherwise provided by subsections (a)(1)(D) and (a)(1)(E) ~~of this Section~~; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing waste generated at the site; or 15 years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued under the following conditions:
- i) No statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled sampling for three consecutive years, after changing to an annual monitoring frequency; or

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- ii) Immediately after contaminated leachate is no longer generated by the unit.
- D) The Agency may reduce the groundwater monitoring period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- E) An owner or operator of a MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the post-closure care monitoring period for all of the following requirements:
 - i) Inspection and maintenance (Section 811.111);
 - ii) Leachate collection (Section 811.309);
 - iii) Gas monitoring (Section 811.310); and
 - iv) Groundwater monitoring (Section 811.319).

BOARD NOTE: Changes to subsections (a)(1)(A), (a)(1)(C), (a)(1)(D), and (a)(1)(E) of this Section are derived from 40 CFR 258.61 (2017) (2013).

- 2) Criteria for Choosing Constituents to be Monitored:
 - A) The operator must monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents must be chosen for monitoring if they meet the following requirements:
 - i) The constituent appears in, or is expected to be in, the leachate; and
 - ii) Is contained within the following list of constituents:
 - Ammonia – Nitrogen (dissolved)
 - Arsenic (dissolved)
 - Boron (dissolved)
 - Cadmium (dissolved)

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Chloride (dissolved)
Chromium (dissolved)
Cyanide (total)
Lead (dissolved)
Magnesium (dissolved)
Mercury (dissolved)
Nitrate (dissolved)
Sulfate (dissolved)
Total Dissolved Solids (TDS)
Zinc (dissolved)

- iii) This is the minimum list for MSWLFs.
 - iv) Any facility accepting more than 50% by volume non-municipal waste must determine additional indicator parameters based upon leachate characteristic and waste content.
- B) One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents. The use of such indicator constituents must be included in an Agency approved permit.
- 3) Organic Chemicals Monitoring. The operator must monitor each existing well that is being used as a part of the monitoring well network at the facility within one year after ~~September 18, 1990~~ the effective date of this Part, and monitor each new well within the three months after its establishment. The monitoring required by this subsection (a)(3) must be for a broad range of organic chemical contaminants in accordance with the following procedures:
- A) The analysis must be at least as comprehensive and sensitive as the tests for the 51 organic chemicals in drinking water described at 40 CFR 141.40 and appendix I ~~of~~ ~~to~~ 40 CFR 258 (2017) (2006), each incorporated by reference at 35 Ill. Adm. Code 810.104 and:
 - Acetone
 - Acrylonitrile
 - Benzene
 - Benzene

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Bromobenzene
Bromochloromethane
Bromodichloromethane
Bromoform; Tribromomethane
n-Butylbenzene
sec-Butylbenzene
tert-Butylbenzene
Carbon disulfide
Carbon tetrachloride
Chlorobenzene
Chloroethane
Chloroform; Trichloromethane
o-Chlorotoluene
p-Chlorotoluene
Dibromochloromethane
1,2-Dibromo-3-chloropropane
1,2-Dibromoethane
1,2-Dichlorobenzene
1,3-Dichlorobenzene
1,4-Dichlorobenzene
trans-1,4-Dichloro-2-butene
Dichlorodifluoromethane
1,1-Dichloroethane
1,2-Dichloroethane
1,1-Dichloroethylene
cis-1,2-Dichloroethylene
trans-1,2-Dichloroethylene
1,2-Dichloropropane
1,3-Dichloropropane
2,2-Dichloropropane
1,1-Dichloropropene
1,3-Dichloropropene
cis-1,3-Dichloropropene
trans-1,3-Dichloropropene
Ethylbenzene
Hexachlorobutadiene
2-Hexanone; Methyl butyl ketone
Isopropylbenzene
p-Isopropyltoluene
Methyl bromide; Bromomethane

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Methyl chloride; Chloromethane
Methylene bromide; Dibromomethane
Dichloromethane
Methyl ethyl ketone
Methyl iodide; Iodomethane
4-Methyl-2-pentanone
Naphthalene
Oil and Grease (hexane soluble)
n-Propylbenzene
Styrene
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethylene
Tetrahydrofuran
Toluene
Total Phenolics
1,2,3-Trichlorobenzene
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
Trichlorofluoromethane
1,2,3-Trichloropropane
1,2,4-Trimethylbenzene
1,3,5-Trimethylbenzene
Vinyl acetate
Vinyl chloride
Xylenes

- B) At least once every two years, the operator must monitor each well in accordance with subsection (a)(3)(A) ~~of this Section~~.
- C) The operator of a MSWLF unit must monitor each well in accordance with subsection (a)(3)(A) ~~of this Section~~ on a semi-annual basis.

BOARD NOTE: Subsection (a)(3)(C) ~~of this Section~~ is derived from 40 CFR 258.54(b) (2017) ~~(2013)~~.

- 4) Confirmation of Monitored Increase-

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- A) The confirmation procedures of this subsection must be used only if the concentrations of the constituents monitored can be measured at or above the practical quantitation limit (PQL). The PQL is defined as the lowest concentration that can be reliably measured within specified limits of precision and accuracy, under routine laboratory operating conditions. The operator must institute the confirmation procedures of subsection (a)(4)(B) ~~of this Section~~ after notifying the Agency in writing, within 10 ~~ten~~ days, of observed increases:
- i) The concentration of any inorganic constituent monitored in accordance with subsections (a)(1) and (a)(2) ~~of this Section~~ shows a progressive increase over eight consecutive monitoring events;
 - ii) The concentration of any constituent exceeds the maximum allowable predicted concentration at an established monitoring point within the zone of attenuation;
 - iii) The concentration of any constituent monitored in accordance with subsection (a)(3) ~~of this Section~~ exceeds the preceding measured concentration at any established monitoring point; and
 - iv) The concentration of any constituent monitored at or beyond the zone of attenuation exceeds the applicable groundwater quality standards of Section 811.320.
- B) The confirmation procedures must include the following:
- i) The operator must verify any observed increase by taking additional samples within 90 days after the initial sampling event and ensure that the samples and sampling protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with Section 811.320(e), so as to confirm the observed increase. The operator must notify the Agency of any confirmed increase before the end of the next business day following the confirmation.

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- ii) The operator must determine the source of any confirmed increase, which may include, but must not be limited to, natural phenomena, sampling or analysis errors, or an offsite source.
 - iii) The operator must notify the Agency in writing of any confirmed increase. The notification must demonstrate a source other than the facility and provide the rationale used in such a determination. The notification must be submitted to the Agency no later than 180 days after the original sampling event. If the facility is permitted by the Agency, the notification must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813.
 - iv) If an alternative source demonstration described in subsections (a)(4)(B)(ii) and (a)(4)(B)(iii) ~~of this Section~~ cannot be made, assessment monitoring is required in accordance with subsection (b) ~~of this Section~~.
 - v) If an alternative source demonstration, submitted to the Agency as an application, is denied pursuant to 35 Ill. Adm. Code 813.105, the operator must commence sampling for the constituents listed in subsection (b)(5) ~~of this Section~~, and submit an assessment monitoring plan as a significant permit modification, both within 30 days after the dated notification of Agency denial. The operator must sample the well or wells that exhibited the confirmed increase.
- b) Assessment Monitoring. The operator must begin an assessment monitoring program in order to confirm that the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with subsection (c) ~~of this Section~~. The assessment monitoring program must be conducted in accordance with the following requirements:
- 1) The assessment monitoring must be conducted in accordance with this subsection to collect information to assess the nature and extent of groundwater contamination. The owner or operator of a MSWLF unit

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must comply with the additional requirements prescribed in subsection (b)(5) ~~of this Section~~. The assessment monitoring must consist of monitoring of additional constituents that might indicate the source and extent of contamination. In addition, assessment monitoring may include any other investigative techniques that will assist in determining the source, nature and extent of the contamination, which may consist of, but need not be limited to the following:

- A) More frequent sampling of the wells in which the observation occurred;
 - B) More frequent sampling of any surrounding wells; and
 - C) The placement of additional monitoring wells to determine the source and extent of the contamination.
- 2) Except as provided for in subsections (a)(4)(B)(iii) and (a)(4)(B)(v) ~~of this Section~~, the operator of the facility for which assessment monitoring is required must file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813 within 180 days after the original sampling event. The assessment monitoring program must be implemented within 180 days after the original sampling event in accordance with subsection (a)(4) ~~of this Section~~ or, in the case of permitted facilities, within 45 days after Agency approval.
- 3) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents, monitored at or beyond the zone of attenuation is above the applicable groundwater quality standards of Section 811.320 and is attributable to the solid waste disposal facility, then the operator must determine the nature and extent of the groundwater contamination including an assessment of the potential impact on the groundwater should waste continue to be accepted at the facility and must implement the remedial action in accordance with subsection (d) ~~of this Section~~.
- 4) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents is attributable to the solid waste disposal facility and exceeds the maximum allowable predicted concentration within the zone of attenuation, then the operator must

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conduct a groundwater impact assessment in accordance with the requirements of subsection (c) ~~of this Section~~.

- 5) In addition to the requirements of subsection (b)(1) ~~of this Section~~, to collect information to assess the nature and extent of groundwater contamination, the following requirements are applicable to MSWLF units:

- A) The monitoring of additional constituents pursuant to subsection (b)(1) ~~of this Section~~ must include, at a minimum (except as otherwise provided in subsection (b)(5)(E) ~~of this Section~~), the constituents listed in appendix II ~~of~~ ~~to~~ 40 CFR 258, incorporated by reference at 35 Ill. Adm. Code 810.104, and constituents from 35 Ill. Adm. Code 620.410.

BOARD NOTE: Subsection (b)(5)(A) ~~of this Section~~ is derived from 40 CFR 258.55(b) (2017) ~~(2013)~~.

- B) Within 14 days after obtaining the results of sampling required under subsection (b)(5)(A) ~~of this Section~~, the owner or operator must do as follows:
- i) The owner or operator must place a notice in the operating record identifying the constituents that have been detected; and
 - ii) The owner or operator must notify the Agency that such a notice has been placed in the operating record.

BOARD NOTE: Subsection (b)(5)(B) ~~of this Section~~ is derived from 40 CFR 258.55(d)(1) (2017) ~~(2013)~~.

- C) The owner or operator must establish background concentrations for any constituents detected pursuant to subsection (b)(5)(A) ~~of this Section~~ in accordance with Section 811.320(e).

BOARD NOTE: Subsection (b)(5)(C) ~~of this Section~~ is derived from 40 CFR 258.55(d)(3) (2017) ~~(2013)~~.

- D) Within 90 days after the initial monitoring in accordance with subsection (b)(5)(A) ~~of this Section~~, the owner or operator must

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monitor for the detected constituents listed in appendix II of ~~to~~ 40 CFR 258, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 on a semiannual basis during the assessment monitoring. The operator must monitor all the constituents listed in appendix II of ~~to~~ 40 CFR 258 and 35 Ill. Adm. Code 620.410 on an annual basis during assessment monitoring.

BOARD NOTE: Subsection (b)(5)(D) ~~of this Section~~ is derived from 40 CFR 258.55(d)(2) (2017) ~~(2012)~~.

- E) The owner or operator may request the Agency to delete any of the 40 CFR 258 and 35 Ill. Adm. Code 620.410 constituents by demonstrating to the Agency that the deleted constituents are not reasonably expected to be in or derived from the waste contained in the leachate.

BOARD NOTE: Subsection (b)(5)(E) ~~of this Section~~ is derived from 40 CFR 258.55(b) (2017) ~~(2012)~~.

- F) Within 14 days after finding an exceedance above the applicable groundwater quality standards in accordance with subsection (b)(3) ~~of this Section~~, the owner or operator must do as follows:
- i) The owner or operator must place a notice in the operating record that identifies the constituents monitored under subsection (b)(1)(D) ~~of this Section~~ that have exceeded the groundwater quality standard;
 - ii) The owner or operator must notify the Agency and the appropriate officials of the local municipality or county within whose boundaries the site is located that such a notice has been placed in the operating record; and
 - iii) The owner or operator must notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site.

BOARD NOTE: Subsection (b)(5)(F) ~~of this Section~~ is derived from 40 CFR 258.55(g)(1)(i) through (g)(1)(iii) (2017) ~~(2012)~~.

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- G) If the concentrations of all constituents in appendix II ~~of~~ 40 CFR 258, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 are shown to be at or below background values, using the statistical procedures in Section 811.320(e), for two consecutive sampling events, the owner or operator must notify the Agency of this finding and may stop monitoring the appendix II ~~of~~ 40 CFR 258 and 35 Ill. Adm. Code 620.410 constituents.

BOARD NOTE: Subsection (b)(5)(G) ~~of this Section~~ is derived from 40 CFR 258.55(e) (2017) ~~(2013)~~.

- c) Assessment of Potential Groundwater Impact. An operator required to conduct a groundwater impact assessment in accordance with subsection (b)(4) ~~of this Section~~ must assess the potential impacts outside the zone of attenuation that may result from confirmed increases above the maximum allowable predicted concentration within the zone of attenuation, attributable to the facility, in order to determine if there is need for remedial action. In addition to the requirements of Section 811.317, the following requirements apply:
- 1) The operator must utilize any new information developed since the initial assessment and information from the detection and assessment monitoring programs and such information may be used for the recalibration of the GCT model; and
 - 2) The operator must submit the groundwater impact assessment and any proposed remedial action plans determined necessary pursuant to subsection (d) ~~of this Section~~ to the Agency within 180 days after the start of the assessment monitoring program.
- d) Remedial Action. The owner or operator of a MSWLF unit must conduct corrective action in accordance with Sections 811.324, 811.325, and 811.326. The owner or operator of a landfill facility, other than a MSWLF unit, must conduct remedial action in accordance with this subsection (d).
- 1) The operator must submit plans for the remedial action to the Agency. Such plans and all supporting information including data collected during the assessment monitoring must be submitted within 90 days after determination of either of the following:

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- A) The groundwater impact assessment, performed in accordance with subsection (c) ~~of this Section~~, indicates that remedial action is needed; or
 - B) Any confirmed increase above the applicable groundwater quality standards of Section 811.320 is determined to be attributable to the solid waste disposal facility in accordance with subsection (b) ~~of this Section~~.
- 2) If the facility has been issued a permit by the Agency, then the operator must submit this information as an application for significant modification to the permit;
- 3) The operator must implement the plan for remedial action program within 90 days after the following:
- A) Completion of the groundwater impact assessment that requires remedial action;
 - B) Establishing that a violation of an applicable groundwater quality standard of Section 811.320 is attributable to the solid waste disposal facility in accordance with subsection (b)(3) ~~of this Section~~; or
 - C) Agency approval of the remedial action plan, where the facility has been permitted by the Agency.
- 4) The remedial action program must consist of one or a combination of one of more of the following solutions:
- A) Retrofit additional groundwater protective measures within the unit;
 - B) Construct an additional hydraulic barrier, such as a cutoff wall or slurry wall system;
 - C) Pump and treat the contaminated groundwater; or
 - D) Any other equivalent technique which will prevent further contamination of groundwater.

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- 5) Termination of the Remedial Action Program-
- A) The remedial action program must continue in accordance with the plan until monitoring shows that the concentrations of all monitored constituents are below the maximum allowable predicted concentration within the zone of attenuation, below the applicable groundwater quality standards of Section 811.320 at or beyond the zone of attenuation, over a period of four consecutive quarters no longer exist.
 - B) The operator must submit to the Agency all information collected under subsection (d)(5)(A) ~~of this Section~~. If the facility is permitted then the operator must submit this information as a significant modification of the permit.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.320 Groundwater Quality Standards

- a) Applicable Groundwater Quality Standards
- 1) Groundwater quality ~~must shall~~ be maintained at each constituent's background concentration, at or beyond the zone of attenuation. The applicable groundwater quality standard established for any constituent must shall be:
 - A) The background concentration; or
 - B) The Board established standard adjusted by the Board in accordance with the justification procedure of subsection (b).
 - 2) Any statistically significant increase above an applicable groundwater quality standard established pursuant to subsection (a)(1) that is attributable to the facility and which occurs at or beyond the zone of attenuation within 100 years after closure of the last unit accepting waste within such a facility must shall constitute a violation.

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- 3) For the purposes of this Part:
 - A) “Background concentration” means that concentration of a constituent that is established as the background in accordance with subsection (d); and
 - B) “Board established standard” is the concentration of a constituent adopted by the Board as a groundwater quality standard adopted by the Board pursuant to Section 14.4 of the Act or Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55].
- b) Justification for Adjusted Groundwater Quality Standards
 - 1) An operator may petition the Board for an adjusted groundwater quality standard in accordance with the procedures specified in Section 28.1 of the Act and 35 Ill. Adm. Code 104.400:Subpart D.
 - 2) For groundwater which contains naturally occurring constituents which meet the applicable requirements of 35 Ill. Adm. Code 620.410, 620.420, 620.430, or 620.440 the Board will specify adjusted groundwater quality standards no greater than those of 35 Ill. Adm. Code 620.410, 620.420, 620.430 or 620.440, respectively, upon a demonstration by the operator that:
 - A) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for the such water;
 - B) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards ; and
 - C) All technically feasible and economically reasonable methods are being used to prevent the degradation of the groundwater quality.

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- 3) Notwithstanding subsection (b)(2), in no case ~~shall~~ must the Board specify adjusted groundwater quality standards for a MSWLF unit greater than the following levels:

Chemical	Concentration (mg/ℓ) (mg/l)
Arsenic	0.05
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10
Selenium	0.01
Silver	0.05
Toxaphene	0.005
1,1,1-Trichloromethane	0.2
Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl Chloride	0.002

- 4) For groundwater that ~~which~~ contains naturally occurring constituents which do not meet the standards of 35 Ill. Adm. Code 620.410, 620.420, 620.430, or 620.440, the Board will specify adjusted groundwater quality standards, upon a demonstration by the operator that:
- A) The groundwater does not presently serve as a source of drinking water;

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- B) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for those such waters;
- C) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards; and
- D) The groundwater cannot presently, and will not in the future, serve as a source of drinking water because:
 - i) It is impossible to remove water in usable quantities;
 - ii) The groundwater is situated at a depth or location such that recovery of water for drinking purposes is not technologically feasible or economically reasonable;
 - iii) The groundwater is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption;
 - iv) The total dissolved solids content of the groundwater is more than 3,000 mg/l (~~mg/l~~) and that water will not be used to serve a public water supply system; or
 - v) The total dissolved solids content of the groundwater exceeds 10,000 mg/l (~~mg/l~~).
- c) Determination of the Zone of Attenuation
 - 1) The zone of attenuation, within which concentrations of constituents in leachate discharged from the unit may exceed the applicable groundwater quality standard of this Section, is a volume bounded by a vertical plane at the property boundary or 100 feet from the edge of the unit, whichever is less, extending from the ground surface to the bottom of the uppermost aquifer and excluding the volume occupied by the waste.

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- 2) Zones of attenuation must ~~shall~~ not extend to the annual high water mark of navigable surface waters.
 - 3) Overlapping zones of attenuation from units within a single facility may be combined into a single zone for the purposes of establishing a monitoring network.
- d) Establishment of Background Concentrations
- 1) The initial monitoring to determine background concentrations must ~~shall~~ commence during the hydrogeological assessment required by Section 811.315. The background concentrations for those parameters identified in Sections 811.315(e)(1)(G) and 811.319(a)(2) and (a)(3) must ~~shall~~ be established based on consecutive quarterly sampling of wells for a minimum of one year, monitored in accordance with the requirements of subsections (d)(2), (d)(3) and (d)(4). Non-consecutive data may be considered by the Agency, if only one data point from a quarterly event is missing, and it can be demonstrated that the remaining data set is representative of consecutive data in terms of any seasonal or temporal variation. Statistical tests and procedures must ~~shall~~ be employed, in accordance with subsection (e), depending on the number, type and frequency of samples collected from the wells, to establish the background concentrations.
 - 2) Adjustments to the background concentrations must ~~shall~~ be made if changes in the concentrations of constituents observed in background wells over time are determined, in accordance with subsection (e), to be statistically significant, and due to natural temporal or spatial variability or due to an off-site source not associated with the landfill or the landfill activities. Such adjustments may be conducted no more frequently than once every two years during the operation of a facility and modified subject to approval by the Agency. Non-consecutive data may be used for an adjustment upon Agency approval. Adjustments to the background concentration must ~~shall~~ not be initiated prior to November 27, 2009 unless required by the Agency.
 - 3) Background concentrations determined in accordance with this subsection must ~~shall~~ be used for the purposes of establishing groundwater quality standards, in accordance with subsection (a). The operator must ~~shall~~ prepare a list of the background concentrations established in accordance

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with this subsection. The operator ~~must shall~~ maintain such a list at the facility, ~~must shall~~ submit a copy of the list to the Agency for establishing standards in accordance with subsection (a), and ~~must shall~~ provide updates to the list within ten days of any change to the list.

- 4) A network of monitoring wells ~~must shall~~ be established upgradient from the unit, with respect to groundwater flow, in accordance with the following standards, in order to determine the background concentrations of constituents in the groundwater:
 - A) The wells ~~must shall~~ be located at such a distance that discharges of contaminants from the unit will not be detectable;
 - B) The wells ~~must shall~~ be sampled at the same frequency as other monitoring points to provide continuous background concentration data, throughout the monitoring period; and
 - C) The wells ~~must shall~~ be located at several depths to provide data on the spatial variability.
 - 5) A determination of background concentrations may include the sampling of wells that are not hydraulically upgradient of the waste unit where:
 - A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient of the waste; and
 - B) Sampling at other wells will provide an indication of background concentrations that is representative of that which would have been provided by upgradient wells.
 - 6) If background concentrations cannot be determined on site, then alternative background concentrations may be determined from actual monitoring data from the aquifer of concern, which includes, but is not limited to, data from another landfill site that overlies the same aquifer.
- e) Statistical Analysis of Groundwater Monitoring Data
- 1) Statistical tests ~~must shall~~ be used to analyze groundwater monitoring data. One or more of the normal theory statistical tests ~~must shall~~ be chosen first for analyzing the data set or transformations of the data set. If these

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~~Where such~~ normal theory tests are demonstrated to be inappropriate, tests listed in subsection (e)(4) ~~must shall~~ be used. The level of significance (Type I error level) ~~must shall~~ be no less than 0.01, for individual well comparisons, and no less than 0.05, for multiple well comparisons. The statistical analysis ~~must shall~~ include, but not be limited to, the accounting of data below the detection limit of the analytical method used, the establishment of background concentrations and the determination of whether statistically significant changes have occurred in:

- A) The concentration of any chemical constituent with respect to the background concentration or maximum allowable predicted concentration; and
 - B) The established background concentration of any chemical constituents over time.
- 2) The statistical test or tests used ~~must shall~~ be based upon the sampling and collection protocol of Sections 811.318 and 811.319.
- 3) Monitored data that are below the level of detection ~~must shall~~ be reported as not detected (ND). The level of detection for each constituent ~~must shall~~ be the practical quantitation limit (PQL), and ~~must shall~~ be the lowest concentration that is protective of human health and the environment, and can be achieved within specified limits of precision and accuracy during routine laboratory operating conditions. In no case, ~~must shall~~ the PQL be established above the level that the Board has established for a groundwater quality standard under the Illinois Groundwater Protection Act [415 ILCS 55]. The following procedures ~~must shall~~ be used to analyze such data, unless an alternative procedure in accordance with subsection (e)(4), is shown to be applicable:
- A) ~~If Where~~ the percentage of nondetects in the data base used is less than 15 percent, the operator ~~must shall~~ replace NDs with the PQL divided by two, then proceed with the use of one or more of the ~~normal theory Normal Theory~~ statistical tests;
 - B) ~~If Where~~ the percentage of nondetects in the data base used is between 15 and 50 percent, and the data are normally distributed, the operator ~~must shall~~ use Cohen's or Aitchison's adjustment to the sample mean and standard deviation, followed by an applicable statistical procedure;

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- C) ~~If Where~~ the percentage of nondetects in the database used is above 50 percent, then the owner or operator ~~must shall~~ use an alternative procedure in accordance with subsection (e)(4).
- 4) Nonparametric statistical tests or any other statistical test if it is demonstrated to meet the requirements of 35 Ill. Adm. Code 724.197(i).

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 258.40 Table 1 (2017)-(1992).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.321 Waste Placement

- a) Phasing of Operations
- 1) Waste disposal operations ~~must shall~~ move from the lowest portions of the unit to the highest portions. Except as provided in subsection (a)(2), the placement of waste ~~must shall~~ begin in the lowest part of the active face of the unit, located in the part of the facility most downgradient, with respect to groundwater flow.
- 2) The operator may dispose of wastes in areas other than those specified in subsection (a)(1) only under any of the following conditions:
- A) Climatic conditions, such as wind and precipitation, are such that the placement of waste in the bottom of the unit would cause water pollution, litter or damage to any part of the liner;
- B) The topography of the land surrounding the unit makes the procedure of subsection (a)(1) environmentally unsound, for example, because steep slopes surround the unit; or
- C) When groundwater monitoring wells, constructed in accordance with the requirements of Section 811.319, are placed 50 feet, or less, downgradient from the filled portions of the unit.

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- b) Initial Waste Placement
- 1) Construction, compaction and earth moving equipment ~~must shall~~ be prohibited from operating directly on the leachate collection piping system until a minimum of five feet of waste has been mounded over the system.
 - 2) Construction, compaction and earth moving equipment ~~must shall~~ be prohibited from operating directly on the leachate drainage blanket. Waste disposal operations ~~must shall~~ begin at the edge of the drainage layer by carefully pushing waste out over the drainage layer.
 - 3) An initial layer of waste, a minimum of five feet thick, or, alternatively, a temporary protective layer of other material suitable to prevent the compacted earth liner from freezing, ~~must shall~~ be placed over the entire drainage blanket prior to the onset of weather conditions that may cause the compacted earth liner to freeze, except as provided in subsection (b)(4) of this Section.
 - 4) Waste ~~must shall~~ not be placed over areas that are subject to freezing conditions until the liner has been certified or recertified by the CQA officer designated pursuant to Section 811.502 and reconstructed (if necessary) to meet the requirements of Section 811.306.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.323 Load Checking Program

- a) The operator ~~must shall~~ implement a load checking program that meets the requirements of this Section, for detecting and discouraging attempts to dispose regulated hazardous wastes at the facility. For purposes of this Section and Section 811.406, “regulated hazardous ~~waste-wastes~~” means a solid waste that is a hazardous waste, as defined in 35 Ill. Adm. Code 721.103, that is not excluded from regulation as hazardous waste under 35 Ill. Adm. Code 721.104(b) or which was not generated by a VSQG, as defined in 35 Ill. Adm. Code 720.110-are wastes defined as such under RCRA, at 35 Ill. Adm. Code 721, and subject to regulations under 35 Ill. Adm. Code: Subtitle G.
- b) In addition to checking for hazardous waste in accordance with subsection (a), the load checking program at a MSWLF unit ~~must shall~~ include waste load inspection for detecting and discouraging attempts to dispose of “polychlorinated biphenyl wastes,” as defined in 40 CFR 761.3 (2017)-(1992).

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~~BOARD NOTE: Subsection (b) is derived from 40 CFR 258.20(a) (1992).~~

- c) The load checking program must ~~shall~~ consist of, at a minimum, the following components:
- 1) Random Inspections ~~inspections~~
 - A) An inspector designated by the facility must ~~shall~~ examine at least three random loads of solid waste delivered to the landfill on a random day each week. The drivers randomly selected by the inspector must ~~shall~~ be directed to discharge their loads at a separate, designated location within the facility. The facility must ~~shall~~ conduct a detailed inspection of the discharged material for any regulated hazardous or other unacceptable wastes that may be present. Cameras or other devices may be used to record the visible contents of solid waste shipments. ~~If these~~ Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.
 - B) If regulated hazardous wastes or other unacceptable wastes are suspected, the facility must ~~shall~~ communicate with the generator, hauler or other party responsible for shipping the waste to the facility to determine the identity of the waste.
 - 2) Recording Inspection Results. ~~inspection results~~ Information and observations derived from each random inspection must be recorded in writing and retained at the facility for at least three years. The recorded information must include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle; the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record must be signed by both the inspector and the driver.

~~Information and observations derived from each random inspection shall be recorded in writing and retained at the facility for at least three years. The recorded information shall include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed~~

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~~inspection. The written record shall be signed by both the inspector and the driver.~~

- 3) Training. The solid waste management facility must train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program must emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 USC 1801 et seq.).

~~The solid waste management facility shall train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program shall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).~~

d) Handling Regulated Hazardous Wastes

- 1) If any regulated hazardous wastes are identified by random load checking, or are otherwise discovered to be improperly deposited at the facility, the facility ~~must shall~~ promptly notify the Agency, the person responsible for shipping the wastes to the landfill, and the generator of the wastes, if known. Waste loads identical to the regulated hazardous waste identified through the random load checking which have not yet been deposited in the landfill ~~must shall~~ not be accepted. The area where the wastes are deposited ~~must shall~~ immediately be cordoned off from public access. The solid waste management facility ~~must shall~~ assure the cleanup, transportation and disposal of the waste at a permitted hazardous waste management facility.
- 2) The party responsible for transporting the waste to the solid waste management facility ~~must shall~~ be responsible for the costs of such proper cleanup, transportation, and disposal.

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- 3) Subsequent shipments by persons or sources found or suspected to be previously responsible for shipping regulated hazardous waste ~~must~~ shall be subject to the following special precautionary measures prior to the solid waste management facility accepting wastes. The operator must ~~shall~~ use precautionary measures such as questioning the driver concerning the waste contents prior to discharge and visual inspection during the discharge of the load at the working face or elsewhere.

BOARD NOTE: Subsections (a) through (c) are derived from 40 CFR 258.20 (2017).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.326 Implementation of the corrective action program at MSWLF Units

- a) Based on the schedule established pursuant to Section 811.325(d) for initiation and completion of corrective action, the owner or operator must fulfill the following requirements:
 - 1) It must establish and implement a corrective action groundwater monitoring program that fulfills the following requirements:
 - A) At a minimum, the program must meet the requirements of an assessment monitoring program pursuant to Section 811.319(b);
 - B) The program must indicate the effectiveness of the remedy; and
 - C) The program must demonstrate compliance with groundwater protection standards pursuant to subsection (e) ~~of this Section~~.
 - 2) It must implement the remedy selected pursuant to Section 811.325.
 - 3) It must take any interim measures necessary to ensure the adequate protection of human health and the environment. The interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 811.325. The owner or operator must consider the following factors in determining whether interim measures are necessary:
 - A) The time required to develop and implement a final remedy;

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- B) Any actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - C) Any actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - D) Any further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
 - E) The weather conditions that may cause hazardous constituents to migrate or be released;
 - F) Any risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
 - G) Any other situations that may pose threats to human health and the environment.
- b) If an owner or operator determines, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Section 811.325(b) are not being achieved through the remedy selected, the owner or operator must fulfill the following requirements:
- 1) It must implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination pursuant to subsection (c) ~~of this Section~~.
 - 2) It must submit to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1) ~~of this Section~~, an application for a significant modification to the permit describing the alternative methods or techniques and how they meet the standards of Section 811.325(b).
- c) If the owner or operator determines that compliance with the requirements of Section 811.325(b) cannot be practically achieved with any currently available methods, the owner or operator must fulfill the following requirements:
- 1) It must obtain the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements pursuant to Section 811.325(b) cannot be practically achieved with any currently available methods.

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- 2) It must implement alternative measures to control exposure of humans or the environment to residual contamination, as necessary to adequately ~~to adequately~~ protect human health and the environment.
 - 3) It must implement alternative measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that fulfill the following requirements:
 - A) The measures are technically practicable; and
 - B) The measures are consistent with the overall objective of the remedy.
 - 4) It must submit to the Agency, prior to implementing the alternative measures in accordance with subsection (c) ~~of this Section~~, an application for a significant modification to the permit justifying the alternative measures.
 - 5) For purposes of this Section, a “qualified groundwater scientist” is a scientist or an engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.
- d) All solid wastes that are managed ~~pursuant to~~ pursuant to Section 811.325 or subsection (a)(3) ~~of this Section~~ must be managed by the owner or operator in a manner that fulfills the following requirements:
- 1) It adequately protects human health and the environment; and
 - 2) It complies with applicable requirements of this Part-811.
- e) Remedies selected pursuant to Section 811.325 must be considered complete when the following requirements are fulfilled:
- 1) The owner or operator complies with the groundwater quality standards established pursuant to Section 811.320 at all points within the plume of

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contamination that lie beyond the zone of attenuation established pursuant to Section 811.320;

- 2) Compliance with the groundwater quality standards established pursuant to Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program pursuant to Section 811.319(b) have not exceeded the groundwater quality standards for a period of three consecutive years using the statistical procedures and performance standards in Section 811.320(e). The Agency may specify an alternative time period during which the owner or operator must demonstrate compliance with the groundwater quality ~~standards-standard~~(s). The Agency must specify such an alternative time period by considering the following factors:
 - A) The extent and concentration of the releases;
 - B) The behavior characteristics of the hazardous constituents in the groundwater;
 - C) The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and
 - D) The characteristics of the groundwater; and
- 3) All actions required to complete the remedy have been satisfied.
 - f) Within 14 days after the completion of the remedy, the owner or operator must submit to the Agency an application for a significant modification of the permit including a certification that the remedy has been completed in compliance with the requirements of subsection (e) ~~of this Section~~. The certification must be signed by the owner or operator and by a qualified groundwater scientist.
 - g) Upon Agency review and approval of the certification that the corrective action has been completed, in accordance with subsection (e) ~~of this Section~~, the Agency must release the owner or operator from the financial assurance requirements for corrective action pursuant to Subpart G ~~of this Part~~.

BOARD NOTE: Requirements of this Section are derived from 40 CFR 258.58 ~~(2017)~~-(2005).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section 811.404 Identification Record

- a) Each special waste disposed of at a facility (including special wastes generated at the facility) must ~~shall~~ be accompanied by a special waste profile identification sheet, from the waste generator, that certifies the following:
- 1) The generator's name and address;
 - 2) The transporter's name and telephone number;
 - 3) The name of waste;
 - 4) The process generating the waste;
 - 5) Physical characteristics of waste (e.g., color, odor, solid or liquid, flash point);
 - 6) The chemical composition of the waste;
 - 7) The metals content of the waste;
 - 8) Hazardous characteristics (including identification of wastes deemed hazardous by the United States Environmental Protection Agency or the State-state);
 - 9) Presence of polychlorinated polychlorinated-biphenyls (PCBs) (~~PCB~~)-s or 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCDD); and
 - 10) Any other information, such as the result of any test carried out in accordance with Section 811.202, that can be used to determine:
 - A) Whether the special waste is regulated as a hazardous waste, as defined at 35 Ill. Adm. Code 721;
 - B) Whether the special waste is of a type that is permitted for or has been classified, in accordance with 35 Ill. Adm. Code 809, for storage, treatment, or disposal at the facility; and
 - C) Whether the method of storage, treatment, or disposal, using the methods available at the facility, is appropriate for the waste.

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b) Special Waste Recertification ~~waste recertification~~

Each subsequent shipment of a special waste from the same generator must be accompanied by a transportation record in accordance with 35 Ill. Adm. Code 811.403(b), a copy of the original special waste profile identification sheet, and either:

- 1) A special waste recertification by the generator describing whether there have been changes in the following:
 - A) Laboratory analysis (copies to be attached);
 - B) Raw material in the waste-generating process;
 - C) The waste-generating process itself;
 - D) The physical or hazardous characteristics of the waste; and
 - E) New information on the human health effects of exposure to the waste; or
- 2) Certification indicating that any change in the physical or hazardous characteristic of the waste is not sufficient to require a new special waste profile.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: FINANCIAL ASSURANCE

Section 811.704 Closure and Post-Closure Care and Corrective Action Cost Estimates

- a) Written cost estimate. The owner or operator ~~shall~~ must have a written estimate of the cost of closure of all parts of the facility where wastes have been deposited in accordance with the requirements of this Part; the written closure plan, required by Section 811.110 and 35 Ill. Adm. Code 812.114; and the cost of post-closure care and plans, required by this Part and the written post-closure care plans required by 35 Ill. Adm. Code 812.115. The cost estimate is the total cost for closure and post-closure care.
- b) The owner or operator ~~shall~~ must revise the cost estimate whenever a change in the closure plan or post-closure care plan increases the cost estimate.

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- c) The cost estimate must be based on the steps necessary for the premature final closure of the facility on the assumed closure date.
- d) The cost estimate must be based on the assumption that the Agency will contract with a third party to implement the closure plan.
- e) The cost estimate may not be reduced by allowance for the salvage value of equipment or waste, for the resale value of land, or for the sale of landfill gas.
- f) The cost estimate must, at a minimum, include all costs for all activities necessary to close the facility in accordance with all requirements of this Part.
- g) The Board removed this subsection (g) and revised Section 811.718 to disallow discounting for all financial assurance mechanisms but trust funds. This statement maintains structural consistency for cross-references in this Part to subsections (h), (j), and (k).~~(Blank)~~
- h) The post-closure care cost estimate must, at a minimum, be based on the following elements in the post-closure care plan:
 - 1) Groundwater monitoring, based on the number of monitoring points and parameters and the frequency of sampling specified in the permit.
 - 2) The annual ~~cost~~ Cost of cover placement ~~Cover Placement and stabilization~~ Stabilization, including an estimate of the annual residual settlement and erosion control and the cost of mowing.
 - 3) Alternative Landfill Gas Disposal. If landfill gas is transported to an off-site processing system, then the owner or operator ~~must~~ shall include in the cost estimate the costs necessary to operate an onsite gas disposal system, should access to the off-site facility become unavailable. The cost estimate must include the following information: installation, operation, maintenance and monitoring of an on-site gas disposal system.
 - 4) Cost Estimates Beyond the Design Period. When a facility must extend the post-closure care period beyond the applicable design period, the cost estimate must be based upon such additional time and the care activities occurring during that time.
- i) This Section does not authorize the Agency to require the owner or operator to perform any of the indicated activities upon which cost estimates are to be based;

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however, if the site permit requires a closure activity, the owner or operator must ~~shall~~ include the cost of that activity in the cost estimate.

- j) Once the owner or operator has completed an activity, the owner or operator may file an application for significant permit modification pursuant to 35 Ill. Adm. Code 813.201 indicating that the activity has been completed, and zeroing that element of the cost estimate.
- k) Cost Estimate estimate for Corrective Action ~~corrective action~~ at MSWLF Units ~~units~~.
 - 1) An owner or operator of a MSWLF unit required to undertake a corrective action program pursuant to Section 811.326 must ~~shall~~ have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the Section 811.326. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator must ~~shall~~ notify the Agency that the estimate has been placed in the operating record.
 - 2) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Section 811.326(f).
 - 3) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if changes in the corrective action program or MSWLF unit conditions increase the maximum costs of corrective action.
 - 4) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator must ~~shall~~ notify the Agency that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.
 - 5) The owner or operator of each MSWLF unit required to undertake a corrective action program under Section 811.326 must ~~shall~~ establish, in

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accordance with Section 811.706, financial assurance for the most recent corrective action program.

- 6) The owner or operator ~~must shall~~ provide continuous coverage for corrective action until released from the financial assurance requirements for corrective action by demonstrating compliance with Section 811.326 (f) and (g).

BOARD NOTE: Subsection (k) is derived from 40 CFR 258.73 ~~(2017)~~-(1992).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.715 Self-Insurance for Non-Commercial Sites

- a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:

“Assets” means all existing and all probable future economic benefits obtained or controlled by a particular entity.

“Current assets” means 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.

“Generally accepted accounting principles” means the accounting and auditing standards of the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board that are incorporated by reference in 35 Ill. Adm. Code 810.104.

“Gross Revenue” means total receipts less returns and allowances.

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

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“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 tangible assets less liabilities; tangible assets to not include intangibles such as goodwill and rights to patents or royalties.

- b) Information to be Filed. An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:
 - 1) Bond without surety promising to pay the cost estimate (subsection (c) ~~of this Section~~).
 - 2) Proof that the owner or operator meets the gross revenue test (subsection (d) ~~of this Section~~).
 - 3) Proof that the owner or operator meets the financial test (subsection (e) ~~of this Section~~).
- c) Bond Without Surety. An owner or operator utilizing self-insurance must provide a bond without surety on the forms specified in Appendix A, Illustration G ~~of this Part~~. The owner or operator must promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and post-closure care in accordance with the closure and post-closure care plans.
- d) Gross Revenue Test. The owner or operator must demonstrate that less than one-half of its gross revenues are derived from waste disposal operations. Revenue is “from waste disposal operations” if it would stop upon cessation of the owner or operator’s waste disposal operations.
- e) Financial Test:
 - 1) To pass the financial test, the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) ~~of this Section~~:

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- A) The owner or operator must have:
- i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5;~~and~~
 - ii) Net working capital and tangible net worth each at least six times the current cost estimate;~~and~~
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets and at least six times the current cost estimate.
- B) The owner or operator must have:
- i) A current rating of AAA, AA, A, or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A, or Baa, as issued by Moody;
 - ii) Tangible net worth at least six times the current cost estimate;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.
- 2) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:
- A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I;
 - B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and

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- C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating the following:
 - i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.

- f) Updated Information:
 - 1) After the initial submission of items specified in subsections (d) and (e) ~~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.
 - 2) If the owner or operator no longer meets the requirements of subsections (d) and (e) ~~of this Section~~, the owner or operator must send notice to the Agency of intent to establish alternative financial assurance. 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 operator no longer meets the requirements.

- g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) ~~of this Section~~ includes an adverse opinion or a disclaimer of opinion, the Agency must disallow the use of self-insurance. If the opinion includes other qualifications, the Agency must disallow the use of self-insurance if:
 - 1) The qualifications relate to the numbers that are used in the gross revenue test or the financial test; and
 - 2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.

- h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by either of the following means:

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- 1) Demonstrating that a corporation that owns an interest in the owner or operator meets the requirements of this Section; and
- 2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 811.711(d), (e), (f), and (g) ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.716 Local Government Financial Test

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) ~~of this Section~~ may demonstrate financial assurance up to the amount specified in subsection (d) ~~of this Section~~.

- a) Financial Component:
 - 1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) ~~of this Section~~, as applicable:
 - A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or
 - B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:
 - i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
 - ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.
 - 2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].

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3) A unit of local government is not eligible to assure its obligations pursuant to this Section if any of the following is true:

- A) It is currently in default on any outstanding general obligation bonds;
- B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;
- C) It operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or
- D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required pursuant to subsection (a)(2) of this Section. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

4) Terms used in this Section are defined as follows:

“Cash plus marketable securities” is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

“Debt service” is the amount of principal and interest due on a loan in a given time period, typically the current year.

“Deficit” equals total annual revenues minus total annual expenditures.

“Total revenues” include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

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“Total expenditures” include all expenditures excluding capital outlays and debt repayment.

- b) Public Notice Component:
 - 1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.
 - 2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.
 - 3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.
 - 4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.
 - 5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.
- c) Recordkeeping and Reporting Requirements:
 - 1) The unit of local government owner or operator must place the following items in the facility’s operating record:
 - A) A letter signed by the unit of local government’s chief financial officer that provides the following information:
 - i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) ~~of this Section~~;

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- ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) ~~of this Section~~; and
 - iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) ~~of this Section~~.
- B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].
- C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) ~~of this Section~~, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) ~~of this Section~~. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings.
- D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) ~~of this Section~~ or certification that the requirements of Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code Section 810.104, have been met.
- 2) The items required in subsection (c)(1) ~~of this Section~~ must be placed in the facility operating record as follows:
- A) In the case of closure and post-closure care, ~~before November 27, 1997 or~~ prior to the initial receipt of waste at the facility, ~~whichever is later~~; or

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- B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.
- 3) After the initial placement of the items in the facility operating record, the unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.
- 4) The unit of local government owner or operator is no longer required to meet the requirements of subsection (c) ~~of this Section~~ when either of the following occurs:
 - A) The owner or operator substitutes alternative financial assurance as specified in this Section; or
 - B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).
- 5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 120 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained, and submit evidence of the alternative financial assurance to the Agency.
- 6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of these ~~such~~ reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.

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- d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure pursuant to this Section is determined as follows:
- 1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.
 - 2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities pursuant to 35 Ill. Adm. Code 704.213; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure pursuant to this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.
 - 3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) ~~of this Section.~~

BOARD NOTE: Derived from 40 CFR 258.74(f) ~~(2017)-(2013)~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.719 Corporate Financial Test

An MSWLF owner or operator that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

- a) Financial Component ~~component.~~
- 1) The owner or operator must satisfy one of the following three conditions:
 - A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; ~~or~~
 - B) A ratio of less than 1.5 comparing total liabilities to net worth; or

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- C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
- 2) The tangible net worth of the owner or operator must be greater than:
 - A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus \$10 million except as provided in subsection (a)(2)(B) ~~of this Section~~.
 - B) \$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
 - 3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test, as described in subsection (c) ~~of this Section~~.
- b) Recordkeeping and Reporting Requirements ~~reporting requirements~~.
 - 1) The owner or operator must place the following items into the facility's operating record:
 - A) A letter signed by the owner's or operator's chief financial officer that includes the following:
 - i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities pursuant to this Part; cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 730, if applicable; cost estimates required for petroleum underground storage tank facilities pursuant to 40 CFR 280, if applicable; cost estimates required for PCB storage facilities pursuant to 40 CFR 761, if applicable; and cost estimates required for hazardous

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waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725, if applicable; and

- ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) ~~of this Section~~ and subsections ~~subsection~~ (a)(2) and (a)(3) ~~of this Section~~.

- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternative financial assurance that meets the requirements of this Section.

- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) ~~of this Section~~ that are different from data in the audited financial statements referred to in subsection (b)(1)(B) ~~of this Section~~ or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with professional auditing standards and must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

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- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) ~~of this Section~~, then the letter must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.
- 2) An owner or operator must place the items specified in subsection (b)(1) ~~of this Section~~ in the operating record and notify the Agency in writing that these items have been placed in the operating record before the initial receipt of waste ~~or before February 17, 1999, whichever is later~~, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.
- BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective “before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later.”. The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.
- 3) After the initial placement of items specified in subsection (b)(1) ~~of this Section~~ in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency must provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1) ~~of this Section~~.
- 4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:

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- A) It substitutes alternative financial assurance, as specified in this Subpart G, that is not subject to these recordkeeping and reporting requirements; or
 - B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.
- 5) If the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator must also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance. The owner or operator must submit evidence of the alternative financial assurance to the Agency.
- 6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b) ~~of this Section~~ at any time it has a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a) ~~of this Section~~. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a) ~~of this Section~~, the owner or operator must provide alternative financial assurance that meets the requirements of this Subpart G.
- c) Calculation of Costs ~~costs~~ to Be Assured ~~be assured~~. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator must include cost estimates required for municipal solid waste management facilities pursuant to this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities pursuant to 35 Ill. Adm. Code 730; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION A Trust Agreement

TRUST AGREEMENT

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of _____ day of _____, the _____, by and between _____, a _____, the "Grantor," and _____ the "Trustee."

Whereas, Section 21.1 of the Environmental Protection Act, "Act", prohibits any person from conducting any waste disposal operation unless such person has posted with the Illinois Environmental Protection Agency, "IEPA", a performance bond or other security for the purpose of insuring closure of the site and post-closure care or corrective action in accordance with the Act and Illinois Pollution Control Board, "PCB", rules.

Whereas, the PCB has established certain regulations applicable to the Grantor, requiring that an operator of a waste disposal site provide assurance that funds will be available when needed for closure and/or post-closure care or corrective action of the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity that has authority to act as a trustee and whose trust operations are regulated by the Illinois Department of Financial and Professional Regulation or who complies with the Corporate Fiduciary Act [205 ILCS 5]. (Line through any condition that does not apply.)

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions.

As used in this Agreement:

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- a) The term “Grantor” means the operator who enters into this Agreement and any successors or assigns of the operator.
- b) The term “Trustee” means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates.

This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address and current cost estimate of each site for which financial assurance is demonstrated by this agreement).

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the “Fund,” for the benefit of the IEPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached to this agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this agreement. The Fund shall be held by the Trustee, in trust, as provided in this agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor.

Section 4. Payment for Closure and Post-Closure care or Corrective Action.

The Trustee shall make payments from the Fund as the IEPA shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care or corrective action of the sites covered by this agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA from the Fund for closure and post-closure or corrective action expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

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Section 6. Trust Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- a) Securities or other obligations of the Grantor, or any other owner or operator of the site, or any of their affiliates as defined in Section 80a-2(a)(2) of the Investment Company Act of 1940, as amended (15 USC 80a-2(a)(2)) shall not be acquired or held, unless they are securities or other obligations of the Federal government or the State of Illinois;
- b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by the Federal Deposit Insurance Corporation.
- c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

- a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 USC 80a-1 et seq.) including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this agreement or by law, the Trustee is expressly authorized and empowered;

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- a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;
- b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this agreement;
- c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by the Federal Deposit Insurance Corporation; and
- e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee, to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation.

The Trustee shall annually furnish to the Grantor and to the IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the _____ day of _____. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the IEPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after

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the statement has been furnished to the Grantor and the IEPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and the successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the IEPA and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the IEPA to the Trustee shall be in writing, signed by the IEPA Director or his/her designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a

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termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or IEPA, except as provided in this agreement.

Section 15. Notice of Nonpayment.

The Trustee shall notify the Grantor and the IEPA, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee if the Grantor ceases to exist.

Section 17. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the IEPA Director or his/her designee issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law.

This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

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Section 20. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 35 Ill. Adm. Code 811. Appendix A, Illustration A as those regulations were constituted on the date this Agreement was entered.

Attest: Signature of Grantor _____

Typed Name _____

Title _____

Seal

Attest: Signature of Trustee _____

Typed Name _____

Title _____

Seal

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION B Certificate of Acknowledgment

CERTIFICATE OF ACKNOWLEDGMENT

State of _____)
)SS
County of _____)

On _____ this _____ day of _____, _____ before me personally came _____ (operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at _____ (address), that she/he is _____ (title) of _____ (corporation), the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

_____ Notary Public

My Commission Expires _____

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION ~~Section.811.ILLUSTRATION E~~ Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Environmental Protection Agency
C/O Bureau of Land #24
Financial Assurance Program
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Dear Sir or Madam:

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We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit _____ in your favor,
No. _____
at the request and for the account _____ up to the
of _____
aggregate amount of _____ U.S. dollars (\$ _____)
available upon presentation of:

1. your sight draft, bearing references to this letter of credit _____ ; and
No. _____
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 811.713(e)."

This letter of credit is effective as of _____ [date] and shall expire on _____ [date] at least one year later]; but that expiration date shall be automatically extended for a period of [at least one year] on _____ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and _____ [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both the _____ [owner's or operator's name] and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor that draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure or Corrective Action Fund in accordance with your instructions.

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We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration E as that regulation was constituted on the date shown below.

Signature _____

Typed Name _____

Title _____

Date _____

Name and address of issuing institution _____

This credit is subject to [insert “the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce;”, or “the Uniform Commercial Code”].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section ~~811.APPENDIX 811.Appendix B~~ State-Federal MSWLF Regulations Correlation Table

RCRA SUBTITLE D REGULATIONS

ILLINOIS LANDFILL REGULATIONS

I. Subpart ~~SUBPART A~~: General

- | | | | |
|----|--|----|--|
| 1) | Purpose, Scope, and Applicability (40 CFR 258.1) | 1) | NL ¹ : Sections 811.101, 811.301, 811.401, 811.501, and 811.700. EL ² : Section 814.101. |
| 2) | Definitions (40 CFR 258.2) | 2) | Section 810.103. |

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- | | | | |
|----|---|----|---|
| 3) | Research, Development, and Demonstration Permits (40 CFR 258.4) | 3) | Sections 811.103(b)(1) and (b)(2), 811.107(m)(1)(C), 811.314(a), and 813.112. |
|----|---|----|---|

II. Subpart SUBPART-B: Location Restrictions

- | | | | |
|----|---|----|---|
| 1) | Airport safety (40 CFR 258.10) | 1) | NL ¹ : Section 811.302(e) <u>and (f)</u> . EL ² : <u>Sections Section</u> 814.302(c) and 814.402(c). |
| 2) | Floodplains. (40 CFR 258.11) | 2) | NL ¹ : Section 811.102(b). EL ² : <u>Sections Section</u> 814.302(a)(1) and 814.402(a)(1). |
| 3) | Wetlands. (40 CFR 258.12) | 3) | NL ¹ : Sections 811.102(d) <u>and (e)</u> ; 811.102(e) , and 811.103. EL ² : Sections 811.102(d) <u>and (e)</u> ; 811.102(e) , and 811.103. |
| 4) | Fault areas. (40 CFR 258.13) | 4) | NL ¹ : Sections 811.304 and 811.305. EL ² : <u>Sections Section</u> 814.302 and 814.402. |
| 5) | Seismic impact zones. (40 CFR 258.14) | 5) | Same as <u>(4)</u> -above. |
| 6) | Unstable areas. (40 CFR 258.15) | 6) | NL ¹ : Sections 811.304 and 811.305. EL ² : Sections 811.302(c) and 811.402(c). |
| 7) | Closure of existing MSWL units. (40 CFR 258.16) | 7) | EL ² : Sections 814.301 and 814.401. |

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III. Subpart ~~SUBPART~~-C: Operating Criteria

- | | | | |
|----|--|----|--|
| 1) | Procedures for excluding the receipt of hazardous waste. (40 CFR 258.20) | 1) | NL ¹ : Section 811.323. EL ² : Sections 814.302 and 814.402. |
| 2) | Cover material requirements. (40 CFR 258.21) | 2) | NL ¹ : Section 811.106. EL ² : Sections 814.302 and 814.402. |
| 3) | Disease vector control. (40 CFR 258.22) | 3) | NL ¹ : Section 811.107(i). EL ² : Sections 814.302 and 814.402. |
| 4) | Explosive gas control. (40 CFR 258.23) | 4) | NL ¹ : Sections 811.310, 811.311, and 811.312. EL ² : Sections 814.302 and 814.402. |
| 5) | Air criteria. (40 CFR 258.24) | 5) | NL ¹ : Sections 811.107(b), 811.310, and 811.311. EL ² : Sections 814.302 and 814.402. |
| 6) | Access requirements. (40 CFR 258.25) | 6) | NL ¹ : Section 811.109. EL ² : Sections 814.302 and 814.402. |
| 7) | Run-on/run-off control system. (40 CFR 258.26) | 7) | NL ¹ : Section 811.103. EL ² : Sections 814.302 and 814.402. |
| 8) | Surface water requirements. (40 CFR 258.27) | 8) | Same as <u>(7)</u> -above. |
| 9) | Liquids restrictions. (40 CFR 258.28) | 9) | NL ¹ : Section 811.107(m). EL ² : Sections 814.302 and 814.402. |

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- | | | | |
|-----|--|-----|---|
| 10) | Recordkeeping requirements. (40 CFR 258.29) | 10) | NL ¹ : Section Sections 811.112; and Parts 812 and 813. EL ² : Sections 814.302 and 814.402. |
| IV. | <u>Subpart SUBPART-D: Design Criteria</u>
eriteria (40 CFR 258.40) | IV) | NL ¹ : 811.303, 811.304, 811.305, 811.306, 811.307, 811.308, 811.309, 811.315, 811.316, <u>and</u> 811.317, and 811.Subpart E. EL ² : Sections 814.302 and 814.402. |
| V. | <u>Subpart SUBPART-E: Groundwater Monitoring and Corrective Action</u> | | |
| 1) | Applicability. | 1) | NL ¹ : 35 Section 811.319(a)(1). EL ² : Sections 814.302 and 814.402. |
| 2) | Groundwater monitoring systems. (40 CFR 258.51) | 2) | NL ¹ : Sections 811.318 and 811.320(d). EL ² : Sections 814.302 and 814.402. |
| 3) | Groundwater sampling and analysis. (40 CFR 258.53) | 3) | NL ¹ : Sections <u>Section</u> 811.318(e); <u>and</u> 811.320(d); 811.320 <u>and</u> (e). EL ² : Sections 814.302 and 814.402. |
| 4) | Detection monitoring program. (40 CFR 258.54) | 4) | NL ¹ : Section 811.319(a). EL ² : Sections 814.302 and 814.402. |
| 5) | Assessment monitoring program. (40 CFR 258.55) | 5) | NL ¹ : Section 811.319(b). EL ² : Sections 814.302 and 814.402. |
| 6) | Assessment of corrective measures. (40 CFR 258.56) | 6) | NL ¹ : Sections 811.319(d) and 811.324. EL ² : Sections 814.302 and 814.402. |

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- 7) Selection of remedy. (40 CFR 258.57) 7) NL¹: Sections 811.319(d) and 811.325. EL²: Sections 814.302 and 814.402.
- 8) Implementation of the corrective action program. (40 CFR 258.58) 8) NL¹: Sections 811.319(d) and ~~811.325~~ 811.326. EL²: Sections 814.302 and 814.402.
- VI. Subpart SUBPART-F: Closure and Post-Closure Care
- 1) Closure criteria. (40 CFR 258.60) 1) NL¹: Sections 811.110, ~~811.315~~ 811.314, and 811.322. EL²: Sections 814.302 and 814.402.
- 2) Post-closure care requirements. (40 CFR 258.61) 2) NL¹: Section 811.111. EL²: Sections 814.302 and 814.402.
- VII. Subpart SUBPART-G: Financial Assurance Criteria
- 1) Applicability and effective date. (40 CFR 258.70) 1) NL¹: Section 811.700. EL²: Sections 814.302 and 814.402.
- 2) Financial assurance for closure. (40 CFR 258.71) 2) NL¹: Sections 811.701 through 811.705. EL²: Sections 814.302 and 814.402.
- 3) Financial assurance for post-closure. (40 CFR 258.72) 3) Same as (2).
- 4) Financial assurance for corrective action. (40 CFR 258.73) 4) Same as (2).

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- 5) Allowable mechanisms. (40 CFR 258.74 and 258.75) 5) NL¹: ~~Sections~~ Section 811.706 through 811.720. EL²: Sections 814.302 and 814.402.

1 - NL: New Landfill; 2 - EL: Existing Landfill and Lateral Expansions.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 811.APPENDIX Appendix C List of Leachate Monitoring Parameters

pH
Elevation Leachate Surface
Bottom of Well Elevation
Leachate Level from Measuring Point
Arsenic (total)
Barium (total)
Cadmium (total) mg/l
Iron (total)
Ammonia Nitrogen – N
Bacteria (Fecal Coliform)
Biochemical Oxygen Demand (BOD₅)
1,1,1,2-Tetrachloroethane
1,1,1-Trichloroethane
1,1,2,2-Tetrachloroethane
1,1,2-Trichloroethane
1,1-Dichloroethane
1,1-Dichloroethylene
1,1-Dichloropropene
1,2,3-Trichlorobenzene
1,2,3-Trichloropropane
1,2,4-Trichlorobenzene
1,2,4-Trimethylbenzene
1,2-Dibromo-3-Chloropropane
1,2-Dichloroethane
1,2-Dichloropropane
1,3,5-Trimethylbenzene
1,3-Dichloropropane
1,3-Dichloropropene
1,4-Dichloro-2-Butene

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1-Propanol
2,2-Dichloropropane
2,4,5-tp (Silvex)
2,4,6-Trichlorophenol
2,4-Dichlorophenol
2,4-Dichlorophenoxyacetic Acid (2,4-D)
2,4-Dimethylphenol
2,4-Dinitrotoluene
2,4-Dinitrophenol
2,6-Dinitrotoluene
2-Chloroethyl Vinyl Ether
2-Chloronaphthalene
2-Chlorophenol
2-Hexanone
2-Propanol (Isopropyl Alcohol)
3,3-Dichlorobenzidine
4,4-DDD
4,4-DDE
4,4-DDT
4,6-Dinitro-o-Cresol
4-Bromophenyl Phenyl Ether
4-Chlorophenyl Phenyl Ether
4-Methyl-2-Pentanone
4-Nitrophenol
Acenaphthene
Acetone
Alachlor
Aldicarb
Aldrin
Alpha – BHC
Aluminum
Anthracene
Antimony
Atrazine
Benzene
Benzo (a) Anthracene
Benzo (a) Pyrene
Benzo (b) Fluoranthene
Benzo (ghi) Perylene
Benzo (k) Fluoranthene

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Beryllium (total)
Beta – BHC
Bicarbonate
Bis (2-Chloro-1-Methylethyl) Ether
Bis (2-Chloroethoxy) Methane
Bis (2-Chloroethyl) Ether
Bis (2-Ethylhexyl) Ether
Bis (2-Ethylhexyl) Phthalate
Bis(Chloromethyl) Ether
Boron
Bromobenzene
Bromochloromethane
Bromodichloromethane
Bromoform
Bromomethane
Butanol
Butyl Benzyl Phthalate
Calcium mg/l
Carbofuran
Carbon Disulfide
Carbon Tetrachloride
Chemical Oxygen Demand (COD)
Chlordane
Chloride mg/l
Chlorobenzene
Chloroethane
Chloroform
Chloromethane
Chromium (hexavalent)
Chromium (total)
Chrysene
Cis-1,2-Dichloroethylene
Cobalt (total)
Copper (total)
Cyanide
DDT
Delta – BHC
Di-N-Butyl Phthalate
Di-N-Octyl Phthalate
Dibenzo (a,h) Anthracene

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Dibromochloromethane
Dibromomethane
Dichlorodifluormethane
Dieldrin
Diethyl Phthalate
Dimethyl Phthalate
Endosulfan I
Endosulfan II
Endosulfan Sulfate
Endrin
Endrin Aldehyde
Ethyl Acetate
Ethylbenzene
Ethylene Dibromide (EDB)
Fluoranthene
Fluorene
Fluoride
Heptachlor Epoxide
Heptachlor
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclopentadiene
Hexachloroethane
Ideno (1,2,3-cd) Pyrene
Iodomethane
Isopropylbenzene
Lead (total)
Lindane
Magnesium (total)
Manganese (total)
Mercury (total)
Methoxychlor
Methyl Chloride
Methyl Ethyl Ketone
Methylene Bromide
Methylene Chloride
Naphthalene
Nickel (total)
Nitrate-Nitrogen
Nitrobenzine

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Oil. Hexane Soluble (or Equivalent)
Parathion
Pentachlorophenol
Phenanthrene
Phenols
Phosphorous
Polychlorinated Biphenyls
Potassium
Pyrene
Selenium
Silver (total)
Specific Conductance
Sodium
Styrene
Sulfate
Temperature of Leachate Sample (°F)
Tert-Butylbenzene
Tetrachlorodibenzo-p-Dioxins
Tetrachloroethylene
Tetrahydrofuran
Thallium
Tin
Toluene
Total Organic Carbon (TOC)
Total Dissolved Solids (TDS) mg/l
Total Suspended Solids (TSS) mg/l
Toxaphene
Trans-1,2-Dichloroethylene
Trans-1,3-Dichloropropene
Trichloroethylene
Trichlorofluoromethane
Vinyl Acetate
Vinyl Chloride
Xylene
Zinc (total)
m-Dichlorobenzene
m-Xylene
n-Butylbenzene
n-Nitrosodimethylamine
n-Nitrosodiphenylamine

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n-Nitrosodipropylamine
n-Propylbenzene
o-Chlorotoluene
o-Dichlorobenzene
o-Nitrophenol
o-Xylene
p-Chlorotoluene
p-Cresol
p-Dichlorobenzene
p-Isopropyltoluene
p-Nitrophenol
p-Xylene
sec-Butylbenzene

Note: All parameters must ~~shall~~ be determined from unfiltered samples.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Information to Be Submitted in a Permit Application
- 2) Code citation: 35 Ill. Adm. Code 812
- 3) Section Number: 812.105 Adopted Action: Amendment
- 4) Statutory authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27.
- 5) Effective date of rule: NOV 19 2018
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Statement of availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: 42 Ill. Reg. 12914; July 6, 2018
- 10) Has JCAR issued a statement of objections to these rules? No. Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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).
- 11) Differences between the proposal and the final version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The only differences is a correction to an entry in the main source note of Part 812.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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

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Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendment appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace emergency rule currently in effect? No.
- 14) Are there any other rulemakings pending on this Part? No.
- 15) Summary and purpose of rulemaking: The amendment to Part 812 is a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 733, 738, 739, 810, and 811. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are the first group for publication: 35 Ill. Adm. Code 702 through 705, 720, and 810 through 812.

Section 22.40(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.40(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules. Section 22.40(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2014)). The Illinois MSWLF rules are in 35 Ill. Adm. Code 810 through 814. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois landfill rules and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 702. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

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Specifically, the amendment to Part 812 incorporates corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] 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).

- 16) Information and questions regarding this adopted rulemaking shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

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

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312-814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

The full text of the adopted amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 812
INFORMATION TO BE SUBMITTED IN A PERMIT APPLICATION

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL
LANDFILLS

Section

812.101	Scope and Applicability
812.102	Certification by Professional Engineer
812.103	Application Fees
812.104	Required Signatures
812.105	Approval by Unit of Local Government
812.106	Site Location Map
812.107	Site Plan Map
812.108	Narrative Description of the Facility
812.109	Location Standards
812.110	Surface Water Control
812.111	Daily Cover
812.112	Legal Description
812.113	Proof of Property Ownership and Certification
812.114	Closure Plans
812.115	Postclosure Care Plans
812.116	Closure and Postclosure Cost Estimates
812.117	Electronic Reporting

SUBPART B: ADDITIONAL INFORMATION REQUIRED FOR INERT
WASTE LANDFILLS

Section

812.201	Scope and Applicability
812.202	Waste Stream Test Results
812.203	Final Cover
812.204	Closure Requirements

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SUBPART C: ADDITIONAL INFORMATION REQUIRED FOR
PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	
812.301	Scope and Applicability
812.302	Waste Analysis
812.303	Site Location
812.304	Waste Shredding
812.305	Foundation Analysis and Design
812.306	Design of the Liner System
812.307	Leachate Drainage and Collection Systems
812.308	Leachate Management System
812.309	Landfill Gas Monitoring Systems
812.310	Gas Collection Systems
812.311	Landfill Gas Disposal
812.312	Intermediate Cover
812.313	Design of the Final Cover System
812.314	Description of the Hydrogeology
812.315	Plugging and Sealing of Drill Holes
812.316	Results of the Groundwater Impact Assessment
812.317	Groundwater Monitoring Program
812.318	Operating Plans

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15785, effective September 18, 1990; amended in R90-26 at 18 Ill. Reg. 12185, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1461, effective December 20, 2006; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL
LANDFILLS

Section 812.105 Approval by Unit of Local Government

The applicant must ~~shall~~ state whether the facility is a new regional pollution control facility, as defined in Section 3.330 ~~3.32~~ of the Act, which is subject to the site location suitability approval requirements of Sections 39(c) and 39.2 of the Act. If such approval by a unit of local government is required, the application must ~~shall~~ identify the unit of local government with jurisdiction. The application must ~~shall~~ contain any approval issued by that unit of local

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government. If no approval has been granted, the application must ~~shall~~ describe the status of the approval request.

(Source: Amended at 42 Ill. Reg. _____, effective _____)